

# AGENDA

\*Revised: Added Consent Agenda Items I, IV, V and VI.  
\*\*Revision 2: Added III

## Wednesday November 24, 2021 - 10:00 AM BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2021-81

### CALL TO ORDER

- Roll Call
- Pledge of Allegiance

- I. **\*HOUSING AUTHORITY 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. Approval to execute a contract between the Housing Authority of Clackamas County (HACC) and El Programa Hispano Catòlico to provide Supportive Housing Case Management and Housing Navigation and Placement. Maximum contract value of \$462,917 funded through Supportive Housing Services Program funding. No County General Funds Involved.
- II. **PUBLIC HEARINGS** (The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)
  - a. Approval of a Board Order Accepting a Request to Transfer Jurisdiction from Clackamas County to the City of Molalla of a Portion of S. Ona Way (County Road #1303, DTD #52003) to the City
- III. **\*\*Father's Heart Warming Center Services Grant Amendment #2**
  - a. Approval of a Non-Federal Subrecipient Grant Agreement Amendment #2 with The Father's Heart Street Ministry for Warming Center Services in the amount of \$98,136 funded by the State of Oregon. No County General Funds are involved. – H3S
- 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. **Elected Officials**
    - i. Approval of Previous Business Meeting Minutes – BCC
    - ii. Approval of Resolution In the matter of distribution of funds from 2021 House Bill 5006 for Reimbursement of Lost Property Tax Revenue related to the 2020 Wildfires. This is a one-time General Fund appropriation of \$116,831. – *Assessment and Taxation*

**b. Health, Housing, and Human Services**

- i. Approval of a Subrecipient Agreement with Clackamas Women's Services to Provide Homeless Shelter Services for Children's Programing to homeless children overcoming trauma. Agreement value is \$15,000 funded through Community Development Block Grant FY21 funds. No County General Funds are involved. – *Community Development*
- ii. Approval of a Board Order authorizing a subordination agreement with JLL Real Estate Capital, LLC, to allow Mt. Scott Associates Limited Partnership to refinance. The agreement will allow JLL Real Estate Capital, LLC to take the first lender position. Board Order allows the approval of the agreement when the closing transaction occurs. There is no fiscal impact. No County General Funds are involved. – *Community Development*
- iii. Approval of Amendment #3 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority (OHA) for Operation as the Local Public Health Authority for Clackamas County. Contract not to exceed \$10,352,667.14. Funding is provided by the State of Oregon. No County General Funds are involved – *Public Health*
- iv. Approval to accept funding from Oregon Health Authority (OHA) for Elimination of Behavioral Health Inequities. Funding agreement is for \$50,000. No County General Funds are involved – *Health Centers*
- v. Approval of an Intergovernmental Agreement with the Gladstone School District to embed a Mental Health Specialist at Gladstone High School. Contract not to exceed \$61,521 for one year. This is revenue agreement. No County General Funds are involved – *Health Centers*
- vi. Approval of Amendment #2 to a Grant Agreement with Clackamas Women's Services for Emergency Transitional Housing Services in the amount of \$105,000 in County General Funds through the Affordable Housing and Services Fund. – *Social Services*
- vii. Approval of a Local Subrecipient Grant Agreement for Northwest Family Services to provide Family Resource Coordinators in Clackamas County Agreement is \$149,119 funded through Oregon Early Learning Division and Clackamas County General Funds. – *CFCC*
- viii. Approval of a Local Subrecipient Grant Agreement for Metropolitan Family Services to provide Family Resource Coordinators in Clackamas County Agreement for \$149,119 funded through the State of Oregon, Early Learning Division. No County General Funds are involved – *CFCC*

**c. Transportation and Development**

- i. Approval of an Urban Growth Management Agreement (UGMA) between the City of Happy Valley and Clackamas County outlining planning responsibilities within Happy Valley UGMA East. There is no fiscal impact.



d. **Technology Services**

- i. Approval of a Contract with NorthStar Electrical Contractors, Inc. for the CBX Fiber Washington County Consolidated Communications Agency (WCCCA) Connection. Total contract value is \$179,000 funded by the City of Hillsboro. No County General Funds are involved.

e. **Human Resources**

- i. Approval of a Contract with Providence Health & Services – Oregon to provide Medical Screening Services. Total contract value not to exceed \$500,000 over the life of the four year contract. Funded through direct billing to departments some of which are funded through County General Funds.

**V. \*NORTH CLACKAMAS PARKS & RECREATION DISTRICT 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. Approval of an Intergovernmental Agreement between The City of Milwaukie and North Clackamas Parks and Recreation District for Grant Administration, Construction, and Operation of Milwaukie Bay Park Phase III. Estimated annual cost is \$32,000 funded through NCPRD's operating budget. No County General Funds are involved.
- b. Approval of Amendment #5 to the Milwaukie Bay Park Project Design Services Contract with 2.ink Studio Landscape Architecture. This amendment adds \$646,536 for a total contract of \$809,574. Funded through system development charges and NCPRD general funds. No County General Funds are involved.

**VI. \*WATER ENVIRONMENT SERVICES 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. Approval of the Intergovernmental Agreement between Water Environment Services and City of Estacada for Biosolids Hauling and Storage Services. There is no financial impact.

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

*Please note, the ideas expressed during public communication do not necessarily reflect the ideas or beliefs of Clackamas County or the Board of County Commissioners.*

**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>**

November 24, 2021

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval to execute a contract between the Housing Authority of Clackamas County (HACC) and El Programa Hispano Catòlico to provide Supportive Housing Case Management and Housing Navigation and Placement. Not to Exceed \$462,917.00  
No County General Funds Involved

<b>Purpose/Outcomes</b>	Approval to execute the contract between HACC and El Programa Hispano Catòlico to provide housing navigation and placement as well as supportive housing case management services for the Supportive Housing Services Program
<b>Dollar Amount and Fiscal Impact</b>	Total value for the contract over the contract terms is \$462,917.00
<b>Funding Source</b>	Supportive Housing Services Program funding as identified and approved by the Board of County Commissioners – No County General Funds are involved
<b>Duration</b>	Upon signature through October 31, 2022
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	1. Sustainable and affordable housing 2. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	11/08/21; Andrew Naylor
<b>Contact Person</b>	Vahid Brown, Human Services Manager, 971-334-9870
<b>Procurement Review</b>	This procurement process was conducted by HACC staff in partnership and approval from County Finance and the County Procurement office. The RFP was conducted with compliance of County and Local Contract Review Board rules and leadership oversight from Procurement.
<b>Contract No.</b>	Contract No. 10376

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a division of the Health, Housing and Human Services Department (H3S) of Clackamas County, requests approval to execute a contract with El Programa Hispano Catòlico to provide supportive housing case management services and housing navigation and placement services for the Supportive Housing Services Program (SHS Program). The SHS Program is focused on providing permanent supportive housing and supportive services to vulnerable individuals in Clackamas County currently experiencing or at risk of experiencing homelessness, many of whom have a disability.

On August 5<sup>th</sup>, HACC issued a Request For Proposals (RFP) #06-2021 for supportive housing case management and housing navigation and placement services for the initial roll out of the SHS Program. This procurement process was conducted by HACC staff in partnership and approval from County Finance and the County Procurement office. The RFP was conducted with compliance of County and Local Contract Review Board rules and leadership oversight from Procurement. HACC received eleven (11) applications which were evaluated by members of the Continuum of Care Steering Committee (CoCSC), as the inclusive decision making body for the SHS Program as outlined in the Clackamas

County Local Implementation Plan (LIP). The five highest scoring applicants were notified of their award on September 2nd. El Programa Hispano Catòlico was awarded to provide both supportive housing case management and housing navigation and placement services.

El Programa Hispano Catòlico is a culturally specific service provider which has assisted Latinx and BIPOC Oregonians for nearly 40 years. Each year El Programa Hispano Catòlico serves over 22,000 Latinx and BIPOC Oregonians through a plethora of stabilizing and supportive programs. Through this contract they will provide housing navigation and placement for at least 20 households and supportive housing case management services to at least 50 households.

El Programa Hispano Catòlico will be providing housing navigation and placement services to assist households in locating and securing permanent housing by assisting them in overcoming any barriers they may be experiencing. They will link households to rent assistance vouchers programs including the Regional Long-term Rent Assistance Program (RLRA) and will also link them to ongoing Supportive Housing Case Management as needed to stay stably housed.

El Programa Hispano Catòlico will be providing Supportive Housing Case Management to households needing additional wrap-around services in permanent placements. Supportive housing case management is often the missing piece that when added to rent assistance programs can lead to greater housing success.

The initial population served by this contract will be those transitioning from time-limited or temporary emergency housing to more permanent housing solutions. The contract also allows for additional households to be served as capacity and funding allows. This contract will secure services for one year with options to extend and expand to add new households for up to three additional years.

Together, providers awarded through this first successful RFP will be able to assist approximately 100 households with housing navigation and placement services and approximately 200 households with supportive housing case management services and begin the roll out of the SHS Program.

**RECOMMENDATION:**

Staff respectfully recommends that the Housing Authority Board of Clackamas County approve the contract between El Programa Hispano Catòlico and HACC to provide supportive housing case management and housing navigation and placement services for the SHS Program. Staff also recommends the Board authorize Commissioner Tootie Smith, Chair, to sign on behalf of the Housing Authority Board.

Respectfully submitted,



Rodney A. Cook, Director  
Health, Housing and Human Services

**HOUSING AUTHORITY OF CLACKAMAS COUNTY  
PERSONAL SERVICES CONTRACT  
Contract # 10376**

This Personal Service Contract (this "Contract") is entered into between the Housing Authority of Clackamas County ("HACC") and El Programa Hispano Catolico ("Contractor") collectively referred to as the "Parties" and each a "Party." HACC is a Public Corporation, established under the Federal Housing Act of 1937 and the provisions of Chapter 456 of the Oregon Revised Statutes.

**ARTICLE I.**

- 1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on October 31, 2022.
- 2. Scope of Work.** Contractor shall provide the following personal services: provide housing navigation and placement as well as supportive housing case management services ("Work"), further described in **Exhibit A**.
- 3. Consideration.** HACC agrees to pay Contractor, from available and authorized funds, a sum not to exceed Four Hundred Sixty Two Thousand Nine Hundred Seventeen dollars (**\$462,917**), for accomplishing the Work required by this Contract. Consideration rates are on a fixed budget basis in accordance with the costs specified in Exhibit B. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit B.

Contractor understands and agrees that HACC's obligation to pay Contractor for performing the Work under this Contract is expressly contingent upon HACC receiving sufficient funds, as determined by HACC in its sole administrative discretion, from the Metro Regional Government ("Metro") under the supportive housing services program tax, approved as ballot measure 26-210.

- 4. Advances of Funds.** Contractor may request and be paid in advance up \$115,729.25 to perform the Work under this Contract. Advance payments to Contractor must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of Contractor in performing Work under this Contract.
- 5. Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. 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 invoices shall include the total amount billed to date by Contractor prior to the current invoice. 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 in accordance with ORS 293.462 to Contractor following HACC's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and HACC will not be obligated to 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. See Exhibit C.

Invoices shall reference the above Contract Number and be submitted to: Housing Authority of Clackamas County, [HACCAP@clackamas.us](mailto:HACCAP@clackamas.us)

- 6. Travel and Other Expense.** Authorized:  Yes  No

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in Clackamas County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at:

<https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.

- 7. 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, Exhibit A, Exhibit B, Exhibit C, and Exhibit D.

**8. Contractor and HACC Contacts.**

Contractor	HACC
EPHC's Executive Director: Edith Quiroz Phone: (503)489-6809 Email: <a href="mailto:equiroz@elprograma.org">equiroz@elprograma.org</a>	Administrator: Vahid Brown Phone: (971) 334-9870 Email: <a href="mailto:vbrown@clackamas.us">vbrown@clackamas.us</a>

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 will subject Contractor payments to backup withholding.

**ARTICLE II.**

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted 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. HACC 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. Contractor shall maintain such books and records 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 FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by HACC in its sole administrative discretion.
- 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 applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
- 5. COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of HACC without regard to principles of conflicts of law. Any claim, action, or suit between HACC 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. In no event shall this section be construed as a waiver by HACC 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. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.

- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** 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 HACC, Clackamas County, and their officers, elected officials, agents and employees ("Indemnified Parties") 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. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the Indemnified Parties, nor purport to act as legal representative of the Indemnified Parties, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for the Indemnified Parties, nor shall Contractor settle any claim on behalf of the Indemnified Parties without the approval of the Clackamas County Counsel's Office. The Indemnified Parties may, at their election and expense, assume provide housing navigation and placement as well as supportive housing case management services their own defense and settlement.
- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although HACC 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, HACC 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 HACC 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; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to HACC 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.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name HACC and Clackamas County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Housing Authority of Clackamas County, PO Box 1510, Oregon City, OR 97045 or [HACCSHS@clackamas.us](mailto:HACCSHS@clackamas.us).

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input checked="" type="checkbox"/> Required – 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.

<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Sexual Abuse and Molestation: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.

The policy(s) shall be primary insurance as respects to HACC. Any insurance or self-insurance maintained by HACC shall be excess and shall not contribute to it. Any obligation that HACC agree to a waiver of subrogation is hereby stricken.

**10. LIMITATION OF LIABILITIES.** 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. Except for liability arising under or related to Article II, Section 13 or Section 20 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.

**11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to HACC, a copy shall also be sent to: Housing Authority of Clackamas County, PO Box 1510, Oregon City, OR 97045, or [HACCSHS@clackamas.us](mailto:HACCSHS@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during HACC’s normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

**12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of HACC. HACC and Contractor intend that such Work Product be deemed “work made for hire” of which HACC shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to HACC 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 HACC may reasonably request in order to fully vest such rights in HACC. 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. Notwithstanding the above, HACC shall have no rights in any pre-existing Contractor intellectual property provided to HACC by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for HACC use only.

**13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to HACC 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) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- 14. 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, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, 28, and 31 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice HACC'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.
- 15. 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.
- 16. 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 HACC, which shall be granted or denied in HACC's sole discretion. In addition to any provisions HACC may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. HACC's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. 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.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle HACC 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 or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by HACC (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time HACC fails to receive funding, appropriations, or other expenditure authority as solely determined by HACC; or (B) if Contractor breaches any Contract provision or is declared insolvent, HACC may terminate after thirty (30) days written notice with an opportunity to cure.

Upon receipt of written notice of termination from HACC, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to HACC all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon HACC's request, Contractor shall surrender to anyone HACC designates, all documents, research, objects or other tangible things needed to complete the Work.

- 20. REMEDIES.** If terminated by HACC due to a breach by the Contractor, then HACC shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the pro rata permitted annual costs incurred as of the date of the notice of termination, less any amounts previously paid to Contractor by



HACC and any setoff to which HACC is entitled. As used herein, "permitted annual costs" means those costs identified in the budget set forth in Exhibit B, Personal Service Contract Budget, and incurred in accordance with this Contract.

- 21. NO THIRD PARTY BENEFICIARIES.** HACC 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.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. 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.
- 24. FORCE MAJEURE.** Neither HACC nor Contractor shall be held responsible for delay or default caused by events outside HACC or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall 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.
- 25. WAIVER.** The failure of HACC to enforce any provision of this Contract shall not constitute a waiver by HACC of that or any other provision.
- 26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, 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.
  - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
  - c. Not permit any lien or claim to be filed or prosecuted against HACC on account of any labor or material furnished.
  - d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
  - e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling HACC to terminate this Contract for cause.
  - f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.
- 27. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
- 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 HACC 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 HACC ("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 HACC, 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 HACC's request, Contractor will turn over to HACC 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 HACC that cannot adequately be compensated in damages. Accordingly, HACC 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 HACC and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by HACC 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 HACC, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to HACC; 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 HACC.

Contractor shall report, either orally or in writing, to HACC any use or disclosure of Confidential Information not authorized by this Contract or in writing by HACC, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to HACC 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 HACC.

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 a breach of its data security or the 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 HACC may perform services under this Contract or be given access to Personal Information, Confidential Information or access to HACC facilities.

**30. COOPERATIVE CONTRACTING.** Pursuant to ORS 279A.200 to 279A.225, other public agencies may use this Contract resulting from a competitive procurement process unless the Contractor expressly noted in their proposal/quote that the prices and services are available to HACC only. The condition of such use by other agencies is that any such agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with Contractor; HACC accepts no responsibility for performance by either the Contractor or such other agency using this Contract. With such condition, HACC consents to such use by any other public agency.

**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.

El Programa Hispano Catolico

Housing Authority of Clackamas County



11/03/2021

Authorized Signature

Date

\_\_\_\_\_  
Tootie Smith

\_\_\_\_\_  
Date

Edith Quiroz, Executive Director  
Name / Title (Printed)

1077386-92  
Oregon Business Registry #

501(C)3  
Entity Type / State of Formation

Approved as to Form

  
\_\_\_\_\_  
County Counsel

11/08/2021

\_\_\_\_\_  
Date

**EXHIBIT A  
PERSONAL SERVICES CONTRACT  
SCOPE OF WORK**

**SHS PROGRAM GUIDING PRINCIPLES AND EXPECTATIONS**

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**I. Equity:**

The Supportive Housing Services program promotes racial and ethnic justice and seeks to end disparities in housing access. HACC recognizes that culturally responsive and culturally specific services can eliminate structural barriers and provide a sense of safety and belonging, which will lead to better outcomes. HACC recognizes that advancing equity also includes having cultural competencies to provide services to other historically marginalized communities such as LGBTQ2SIA+, youth, people with disabilities, and immigrants and refugees. To further equity goals, Contractor must develop/implement the following:

- A plan to ensure culturally responsive service delivery that is respectful of all participants.
- A plan assuring access to services for people who do not speak the primary language of the service provider.
- A process to work with the HACC SHS team to continuously monitor the demographics of those accessing services using the HMIS (or an HMIS comparable database for domestic violence service providers).
- A quality improvement plan, informed by quantitative and qualitative data analysis, to address evidence of differential access, based on race, ethnicity, disability, gender identity, sexual orientation or other protected class status.
- Ensure that staff and volunteers have knowledge and experience to participate in the effort to increase equity and decrease housing disparities.
- Ensure that staff and volunteers have access to equity and inclusion training on an on-going basis.

**Outcomes:**

The SHS program is intended to end chronic homelessness in Clackamas County. In addition, HACC aims to make homelessness rare, short, and not reoccurring for all who live in Clackamas County. Programs must work in coordination to ensure housing options are safe, stable, and provide housing choice to meet the needs of each individual. The work of ending racial disparities in housing and ending homelessness is one and the same.

In addition to ending homelessness, Metro-wide outcome goals of the SHS program include:

- Advance housing equity by providing access to services and housing to Black, Indigenous and people of color at higher rates than their representation among those experiencing homelessness.
- House individuals and families, and support housing retention, at greater rates than those newly experiencing homelessness, to reduce the overall population of people experiencing homelessness.
- Reduce the average length of time anyone in Clackamas County experiences homelessness until people are offered housing options immediately upon becoming homeless.
- Strengthen housing retention so that, once stably housed, returns to the experience of homelessness are extremely rare.
- Housing programs promote long-term stability, measured by successful program “graduation” to permanent housing and/or housing retention.

- Increase culturally specific organization capacity with increased investments and expanded organizational reach for culturally specific organizations and programs.
- SHS-funded organizations increase equity by hiring a staff that is diverse by race, ethnicity, languages spoken, sexual orientation, gender identity, disability status, age, and lived experience.
- Increase safety, stability and healing for everyone who has experienced homelessness using person-centered, trauma-informed service approaches and connections with mental and physical healthcare.
- Other measures, as determined by Metro, Tri-County data team, and/or Clackamas County community of service providers, will be added.

### **Coordination:**

Partnership and coordination are key components to ending homelessness. A coordinated system makes finding resources easy for potential program participants and allows the entire system to work more smoothly. When done well, a holistic, coordinated approach improves performance system-wide.

The following are effective coordination principles and practices that must be followed. When followed, they ensure system-wide coordination:

- Coordinated Housing Access (CHA) must be utilized to effectively coordinate all housing services. It must be easily accessible and allow participants to complete a single assessment to access all services in the housing continuum.
- Demonstrated partnerships, at all levels of programming, between programs and organizations. Partnerships can be demonstrated through formal contracts, MOUs, system-wide planning participation, and providing infrastructure programming in a coordinated way (including outreach, housing navigation, CHA, and diversion).
- Build connections and coordinate with multiple systems of care (i.e. housing, workforce, education, foster care, DHS, domestic violence, community justice, health, mental health and addictions) to build a community of resources, easily accessible to all.
- Strengthen system capacity by supporting CHA, diversion, outreach and navigation.
- Participate in coordinated system development and implementation, including identifying, addressing, and following-up on unmet needs, gaps in services, and system barriers.

### **Services:**

All services focus on building relationships and service engagement through person-centered, culturally-responsive, trauma-informed, strengths-based practices. Services should align with the Housing First model (see Addendum – Definitions). The purpose of these relationships is to support each household to achieve housing stability through individualized planning and connections with community resources.

To further these services goals, Contractor must follow the following proven practices:

- All services are low-barrier, not requiring pre-requisites to become eligible for services or housing.
- Diversion is attempted at every program “door,” including all immediate housing programs and permanent housing programs, when appropriate.
- Households experiencing or at risk of homelessness must be able to move directly into supportive housing and/or permanent housing without first accessing immediate housing programs. Households must also be presented with available immediate housing options.
- Families will be provided with the option to sleep/stay together; Families will not be separated unless they choose to sleep/stay separately.
- Vulnerable populations are prioritized.

- Vulnerable populations include those with long homeless histories, incomes below 30% AMI, and one or more disabilities.
- Due to a long history of systemic racism, oppression, and everyday micro and macro-aggressions, Black, Indigenous, and People of Color are also more vulnerable to the experience of homelessness.
- Services are voluntary, non-intrusive, and provide minimal disruption to meet the expressed needs and desires of the participant.
- Services are highly flexible and tailored to meet the needs of each household.

### **Participant Voice:**

Each individual is the expert in their own life. To build the best system, people with lived experience of homelessness must help to shape the services designed to end homelessness. Contractor must incorporate the following guidelines into all programs:

- Participants lead development of their own individual service plans.
- Ensure that all services are voluntary and that no participant is required to participate in a particular activity in order to receive services.
- Integrate participant (or those who choose not to participate) in decision-making at every level, including program/service development, delivery, and evaluation.
- People with lived experience, who participate in decision-making and program development, should be paid for their time.
- Have written procedures and policies, as well as an accessible and transparent grievance process, that ensure staff and volunteers provide respectful and effective services.

### **System-wide Service Delivery Expectations (in addition to any items above):**

Contractor shall perform the following:

- Participate in the HMIS or, for domestic violence service providers, an HMIS comparable database.
- Provide services free of charge to participants or utilizing a pre-approved sliding scale fee.
- Include sustainable, environmentally friendly practices in business operations and the delivery of services (for example, providing onsite recycling, and encouraging reduction of waste through electronic records whenever possible).
- Confidential information must be protected in compliance with applicable federal, state, and local privacy rules.
- Maintain an effective working relationship. HACC will have formal relationships with service providers through contracts, and will also expect contractors to maintain ongoing communication with the Supportive Housing Services Team about programs and performance, and to engage in community planning and training opportunities.
- All services must be delivered in a wholly secular manner, and programs may not require participation in religious activities for program eligibility purposes.
- Have a written termination and/or exclusion policy that appropriately protects the interests of participants by: (1) applying a trauma and equity lens to evaluating rule violations; (2) imposing sanctions short of termination whenever reasonably possible; (3) informing the participant in clear terms of the reason for their termination and/or exclusion from the program; and (4) outlines the process for grieving the decision. Except in the most extreme situations, termination and exclusion policies should allow for re-entry into the program under appropriate conditions.
- Ensure that staff and volunteers have access to continuing education opportunities.
- Attend training and community/system networking meetings as reasonably required by HACC

## Housing Navigation & Placement Program Design

Contractor shall provide a housing navigation and placement program. This program will assist approximately 20 households in moving from the **designated hotel/motel shelter** setting (defined here as the motel shelter program funded directly by Clackamas County as part of its COVID-19 response efforts, or any other motel program funded by Clackamas County with a population served designated by HACC) into permanent rental housing within the Metro jurisdictional boundaries and provide a warm hand-off to the supportive housing case manager assigned to each household (except in cases where both navigation/placement and supportive case management are provided by the same staff). This program will provide connections with supportive services and any necessary re-location navigation, after initial housing placement. The goal will be to move approximately 20 households into permanent housing within six months.

Housing navigation and placement consists of flexible services and funding to assist households in accessing and securing rental housing. Housing navigation and placement is tailored to meet each household's specific needs so they can move into rental housing as quickly as possible.

While it is anticipated some households may not engage with navigation and placement, multiple, progressive efforts will be made to engage each household, currently staying in the hotel/motel program, in a housing search plan. If a household does not find permanent housing, or chooses not to engage with housing navigation and placement services, this program will engage in a harm-reduction conversation and may provide supplies to support the chosen living arrangement. Such provision of supplies will be considered an allowable expense under client assistance flexible funds.

The expected navigator to participant ratio is 1:10.

Housing navigation must include the following:

- Check-ins at least weekly with all participating households.
- Assessment of housing barriers, needs and preferences.
- Support and flexible funds to address immediate housing barriers.
- Assistance attending RLRA briefing(s) and responding to program requirements to secure long term rent assistance.
- Housing search assistance, including researching available units, contacting landlords, accompanying participants on apartment tours, etc.
- Landlord engagement, establishing relationships with landlords to facilitate participant placement.
- Assistance with housing application preparation, housing application appeals and reasonable accommodation requests necessary to obtain housing.

Housing placement must include the following:

- Support with moving assistance, securing furniture, application fees, and other non-rent move-in costs.

## Housing Navigation & Placement Program Benchmarks

To indicate program success, Contractor must meet the following benchmarks:

### *Timeline*

1. Hire at least 50% of staff and enroll the first participant within 60 days of Contract execution;
2. Place at least one household into permanent housing within 75 days of Contract execution;

3. Place the higher of 2 households or 10% of total contracted households within 90 days of Contract execution;
4. Place 50% of total contracted households within 90 days of Contract execution;
5. Place 75% of total contracted households within 150 days of Contract execution;
6. Place 100% of total contracted households within 180 days of Contract execution; and
7. Any additional households assigned beyond the contracted number are expected to be placed within 90 days of program enrollment.

\*percent based on # of households contracted

The program will be expected to follow the timeline below, meeting each benchmark, as indicated. Unmet benchmarks will result in the following progressive action:

- First time missing a benchmark
  - Monitoring meeting with SHS Team to identify barriers and possible solutions
- Second time missing a benchmark
  - Another monitoring meeting which will result in a mutually agreed upon Performance Improvement Plan (PIP)
- Third time missing a benchmark
  - Another monitoring meeting, including an evaluation of PIP, with all remedies, up to and including Contract termination, available.

HACC will use HMIS data to verify benchmark achievement. Contractor is expected to notify HACC through email within 14 days once staff are hired and if there are challenges in meeting any of the benchmarks above.

Any additional households assigned beyond the contracted number are expected to be placed within 90 days of program enrollment.

### **Supportive Housing Case Management (“SHCM”) Program Design**

Contractor shall provide a supportive housing case management program. Supportive housing is affordable housing combined with ongoing services that are flexible, tenant-driven, not time-limited, and voluntary to assist households who are experiencing homelessness in achieving housing stability. This program will assist households, who have recently obtained permanent housing through the Metro 300 and ESG RRH programs, as well as households who have obtained housing from the designated motel shelter program in maintaining that housing within the Metro jurisdictional area. Additionally, this program will work with the navigation program if re-location housing navigation services are needed after initial permanent housing placement.

Those permanently housed by the navigation component in this Contract will receive a warm hand-off into this supportive housing program. Subject to availability of funds, as determined by HACC in its sole administrative discretion, HACC will pay the rental subsidy costs through the Regional Long-term Rental Assistance (RLRA) program. HACC will also provide coordination to support smooth transitions between housing navigation/placement and supportive housing case management.

This program will assist approximately 50 households with supportive housing case management. Households are in scattered-site rental units within the Metro jurisdictional area. The expected case manager to participant ratio is 1:25. As more participants are added to the case load, more staff must be added to accommodate them.

Case management services are dedicated to ensuring participants remain in permanent housing long-term either through on-going housing subsidy and support or by “graduating” from rental subsidy and/or intensive case management.



Specific components of supportive housing case management include, but are not limited to:

- One-on-one case management focused on housing stabilization and lease compliance, offered at least monthly.
- Highly flexible services tailored to meet the needs of each household must be offered.
- Services must be offered based upon the individual's needs and desires. These services must include, but are not limited to:
  - Ongoing relational support
  - Assistance responding to RLRA requirements including inspections and paperwork completion
  - Act as a landlord contact and assist in landlord relationship development
  - Education on tenant and landlord rights and responsibilities
  - Regular communication with the tenant and property management
  - Early intervention and support to address issues that could jeopardize housing stability
  - Problem solving and crisis management
  - Connection to independent living supports and/or provision of life skills training, as needed
  - Connections to education and employment opportunities
  - Assistance, or connections to assistance, with applying for SSI/SSDI, or other benefits, when appropriate
  - Appropriate use of flexible funding to support housing stability goals
  - Assistance with house cleaning and unit maintenance as needed to ensure lease compliance
  - Coordination and connections with other supportive services as needed
  - Plan to "graduate" from housing subsidy and/or intensive housing case management services, as appropriate

### **Supportive Housing Case Management Benchmarks**

To verify program implementation and progress toward participant success, Contractor must meet the following goals:

1. Serve participants, as assigned through case conferencing with partner agencies;
2. Communicate at least monthly with each participating household;
3. Maintain permanent housing for all program participants; and
4. Notify HACC through email if any of the goals above are not met.

If the Contractor fails to meet the requirements in #1 and 2 above, or a participant exits into homelessness (non-permanent housing situation), the following progressive action will result:

- First time failing to meet goals, as outlined above
  - Monitoring meeting with HACC to identify barriers and possible solutions
- Second time failing to meet goals, as outlined above
  - Another monitoring meeting which will result in a mutually agreed upon PIP
- Third time failing to meet goals, as outlined above
  - Another monitoring meeting, including an evaluation of PIP, with all remedies, up to and including contract termination, available

In order to identify met and unmet goals, Contractor will notify HACC through email within the timeline listed below, if any of the following occur:

1. Decline to serve a participant assigned through case conferencing with partner agencies
  - a. Contact HACC team within 72 hrs
2. Fail to communicate at least monthly with participants
  - a. Contact HACC team within 30 days

3. Exit a participant to a homeless housing situation
  - a. Contact HACC team within 72 hrs

Notification with an acceptable explanation may avoid progressive action.

**III. In addition to the obligations set forth above, Contractor shall perform the following:**

1. Incorporate and adhere to the guiding principles and expectations set forth above
2. Equity
  - a. In alignment with HACC policies and procedures and in coordination with HACC SHS program staff, develop/implement a plan to ensure culturally responsive service delivery including:
    - Ensure access to services for people who do not speak the primary language of the service provider
    - A plan to provide services equitably to other historically marginalized communities such as LGBTQ2SIA+, youth, people with disabilities, and immigrants and refugees, recognizing intersectionality
    - A quality improvement plan, informed by quantitative and qualitative data analysis, to address evidence of differential access, based on race, ethnicity, disability, gender identity, sexual orientation or other protected class status
    - Ensure that staff and volunteers have access to Equity and Inclusion training on an on-going basis
  - b. Prioritize vulnerable populations
    - Vulnerable populations include those with long homeless histories, incomes below 30% AMI, and one or more disabilities
    - Due to a long history of systemic racism, oppression, and everyday micro and macro-aggressions, Black, Indigenous, and People of Color are also more vulnerable to the experience of homelessness
3. Coordination
  - a. All program participants must be screened through CHA and effectively matched with the most appropriate and available services.
    - Where participants are already in permanent housing, this step is only appropriate if planning to refer to retention services outside of the Contractor
  - b. Participate in coordinated system development and implementation, including identifying, addressing, and following-up on unmet needs, gaps in services, and system barriers.
  - c. Attend training, community/system networking meetings, and case conferencing meetings as reasonably required by HACC.
4. Services
  - a. In alignment with HACC policies and procedures, develop and implement policies to ensure:
    - Services are aligned with Housing First principles (see Addendum – Definitions)
      - All services are low-barrier, not requiring pre-requisites to become eligible for services or housing
      - Services are voluntary, non-intrusive, and provide minimal disruption to meet the expressed needs and desires of the participant
    - Services are highly flexible and tailored to meet the needs of each household
    - Diversion is attempted at every program “door,” when appropriate
    - Vulnerable populations are prioritized

- Families will be provided with the option to sleep/stay together; Families will not be separated unless they choose to sleep/stay separately
  - A written termination and/or exclusion policy that appropriately protects the interests of participants by:
    - applying a trauma and equity lens to evaluating rule violations
    - imposing sanctions short of termination whenever reasonably possible
    - informing the participant in clear terms of the reason for their termination and/or exclusion from the program
    - outlines the process for grieving the decision
    - Except in the most extreme situations, termination and exclusion policies should allow for re-entry into the program under appropriate conditions
5. Participant Voice
- a. In alignment with HACC policies and procedures, develop and implement policies to ensure:
    - Participants lead development of their own individual service plans
    - All services are voluntary and that no participant is required to participate in a particular activity in order to receive services
    - Integrate participants (and/or those who were eligible but did not to participate) in decision-making during program/service development, delivery, and evaluation
    - An accessible and transparent grievance process for both program participants and those who were not offered services. Process must be reviewed and approved by HACC
  - b. Administer instrument to gather participant feedback, to be developed in coordination with and reviewed and approved by HACC
  - c. People with lived experience, who participate in decision-making and program development, will be paid for their time and expertise
6. General
- a. Provided services will be provided free of charge to participants
  - b. Confidential information must be protected in compliance with applicable federal, state, and local privacy rules
  - c. All services must be delivered in a wholly secular manner, and programs may not require participation in religious activities for program eligibility purposes
  - d. Include sustainable, environmentally friendly practices in business operations and the delivery of services (for example, providing onsite recycling, and encouraging reduction of waste through electronic records whenever possible)
  - e. Adhere to all applicable Fair Housing laws
  - f. Provide staff and volunteers access to opportunities for continuing education on effective practices and approaches
7. Overall Program-specific
- a. If all contracted households have been served and there is existing staff capacity, Navigation and Placement (NP) and Supportive Housing Case Management (SHCM), will serve additional households in the following manner:
    - Additional households to SHCM will be referred through CHA and supported with NP assistance
    - Absent additional RLRA funds, NP programs will partner with existing housing programs, as directed by SHS team and informed by needs analyses
    - Vulnerable populations will be prioritized
      - i. Vulnerable populations include those with long homeless histories, incomes below 30% AMI, and one or more disabilities
      - ii. Due to a long history of systemic racism, oppression, and everyday micro and macro-aggressions, Black, Indigenous, and People of Color are also more vulnerable to the experience of homelessness

8. Housing Navigation and Placement Program
  - a. Administer the housing navigation and placement program design set forth above
  - b. Maintain a provider to participant household ratio of not less than 1:10 unless otherwise authorized by HACC
  - c. Assist approximately 20 households in moving from the designated hotel/motel shelter setting into permanent rental housing within the Metro jurisdictional boundaries
  - d. Will implement benchmarks as outlined above
  - e. Participate in case conferencing meetings to coordinate with partner organizations, including designated COVID hotel/motel shelter provider, and determine which participants will be served by which Contractor.
    - Participant preference will be accommodated, whenever possible
  - f. Coordinate and communicate with designated COVID hotel/motel shelter providers to provide a warm hand-off from shelter to navigation and placement services
  - g. Provide a warm hand-off to the supportive housing case manager assigned to each household (except in cases where both navigation/placement and supportive case management are provided by the same staff)
  - h. Provide connections with supportive services
  - i. Provide any necessary re-location navigation, after initial housing placement, as directed by SHS team
  - j. Make multiple, progressive efforts to engage each household, currently staying in the hotel/motel program, in a housing search plan
  - k. If a household does not find permanent housing, or chooses not to engage with housing navigation and placement services, this program will engage in a harm-reduction conversation and may provide supplies to support the chosen living arrangement.
  - l. Provide the following services
    - Check-ins at least weekly with all participating households
    - Assessment of housing barriers, needs and preferences
    - Support and flexible funds to address immediate housing barriers
    - Assistance attending RLRA briefing and responding to program requirements to secure long term rent assistance
    - Housing search assistance, including researching available units, contacting landlords, accompanying participants on apartment tours, etc.
    - Landlord engagement, establishing relationships with landlords to facilitate participant placement
    - Assistance with housing application preparation, housing application appeals and reasonable accommodation requests necessary obtain housing
    - Support with moving assistance, securing furniture, application fees, and other non-rent move-in costs
9. Supportive Housing Case Management (SHCM)
  - a. Administer the SHCM program design set forth above
  - b. Maintain a provider to participant household ratio of 1:25 unless otherwise approved by HACC
  - c. Assist approximately 25 households with supportive housing case management within the Metro jurisdictional boundaries
  - d. Will implement goals as outlined in the SHCM goals section
  - e. Provide services that are flexible, tenant-driven, not time-limited, and voluntary to assist households who are experiencing homelessness in achieving housing stability
  - f. Assist households, who have recently obtained permanent housing through the Metro 300 and ESG RRH programs, in maintaining that housing within the Metro jurisdictional area
  - g. Accept a warm hand-off from the navigation and placement program
  - h. If relocation housing navigation services are needed after initial placement, work with the navigation program within the Contractor to successfully relocate
  - i. Specific components of supportive housing case management shall include, but are

not limited to:

- One-on-one case management focused on housing stabilization and lease compliance, offered at least monthly
- Services must be offered based upon the individual's needs and desires. These services must include, but are not limited to:
  - i. Ongoing relational support
  - ii. Assistance responding to RLRA requirements including inspections and paperwork completion
  - iii. Act as a landlord contact and assist in landlord relationship development
  - iv. Education on tenant and landlord rights and responsibilities
  - v. Regular communication with the tenant and property management
  - vi. Early intervention and support to address issues that could jeopardize housing stability
  - vii. Problem solving and crisis management
  - viii. Connection to independent living supports and/or provision of life skills training, as needed
  - ix. Connections to education and employment opportunities
  - x. Assistance, or connections to assistance, with applying for SSI/SSDI, or other benefits, when appropriate
  - xi. Appropriate use of flexible funding to support housing stability goals
  - xii. Assistance with house cleaning and unit maintenance as needed to ensure lease compliance
  - xiii. Coordination and connections with other supportive services as needed
  - xiv. Create a plan to "graduate" from housing subsidy and/or intensive housing case management services for each household
    - a. All households identified as meeting Population B (defined here as households who are experiencing or at risk of experiencing homelessness who are otherwise not Population A) will have a plan to "graduate" from subsidy and intensive case management
    - b. Households identified as meeting the Population A (defined here as households experiencing or at imminent risk of experiencing long term homelessness, with one or more disabling conditions, and who have incomes less than 30% AML) will have a plan to "graduate" from subsidy and/or intensive case management, as appropriate
  - xv. Provide on-going, limited housing retention and crisis intervention to those who have "graduated" from intensive services, but continue to require a rental subsidy
- j. Provide case management services dedicated to ensuring participants remain in permanent housing long-term either through on-going housing subsidy and support or by "graduating" from rental subsidy and/or intensive case management

#### **IV. HACCC SHS team responsibilities:**

1. Incorporate and adhere to the guiding principles and expectations set forth above
2. Adhere to all applicable Fair Housing laws
3. Support in creating policy manual, including sharing examples
4. Provide quarterly "data report cards" pulled and analyzed from HMIS, including equity data
5. Provide HMIS access, training, and support
6. Provide connections to CHA and diversion training
7. Coordination, support, and/or facilitation of provider meetings, including case

- conferencing meetings, as needed
- 8. SHCM- pay monthly rental subsidies and deposits directly to the landlord with RLRA program
- 9. Provide information, access, and/or support for staff to attend Equity, Inclusion and continuing education trainings
- 10. Connect NP and SHCM programs with the overall system of services for people experiencing homelessness
- 11. Support both formal and informal partnerships between provider organizations, including those newly formed
- 12. Facilitate connections to broader systems of care, including but not limited to:
  - a. Housing
  - b. Workforce
  - c. Education
  - d. Foster care
  - e. Department of Human Services
  - f. Domestic Violence
  - g. Community corrections
  - h. Healthcare, both physical and mental
  - i. Substance use Disorder treatment
- 13. Identify unmet needs, gaps in services and system barriers and address these with the system of providers
- 14. Provide case staffing, either in a group of service provider peers or one-on-one, as needed
- 15. Assist with program access prioritization, as needed
- 16. Incorporate participant voice in SHS programming decisions
- 17. Maintain effective working relationships with contracted providers
- 18. Attend training and community/systems meetings
- 19. If all hotel/motel program participants have moved out of the hotel/motel, and there is additional funding for navigation and placement, direct NP programs to partner with other existing housing programs
- 20. Give at least 30 days' notice for changes in program participant demographics
- 21. Provide or assist with creation of necessary participant/program forms
- 22. Support Contractor in identifying households in the designated COVID hotel/motel program who may be a better fit for STRA/RRH than RLRA with on-going supportive housing case management
- 23. Coordinate with Contractor to serve people on CHA waitlists, if necessary
- 24. Apply the process as outlined in Navigation and Placement Benchmark and the SHCM goals sections described above

## **V. Reporting Requirements**

Contractor will:

1. Participate in the HMIS or, for domestic violence service providers, an HMIS comparable database
  - a. Complete all necessary initial HMIS data entry training within one month of contract execution
  - b. Collect participant demographics and enter data electronically into HMIS into appropriate HMIS providers, which will be determined by HACC
  - c. comply with current HMIS Policy and Procedures and adhere to all HMIS reporting requirements
  - d. Ensure that data entry into HMIS occurs in an accurate and timely manner within three (3) business days of program entry date
  - e. Correct data quality, missing information, and null data errors as specified by SHS Data team within 14 days after the end of each fiscal quarter or as requested.
  - f. Collect, at minimum, universal data elements which include demographic information on all clients at entry

- g. Comply with all confidentiality policies and procedures regarding HMIS and the use of participant data
- h. Ensure only authorized Contractor staff, trained by HACC, shall access the HMIS software
2. Complete narrative sections of quarterly “report cards” within 30 days of receipt
3. Quarterly “report cards” will include, at a minimum, but not limited to the following data categories:
  - a. HMIS data quality: % missing
  - b. Participant demographic data, including race and ethnicity
    - i. All data points listed below will include a breakdown of demographic characteristics related to race and ethnicity
  - c. Navigation and Placement
    - i. Number of households served
    - ii. Length of time from program enrollment to permanent housing placement
    - iii. Number of households placed
    - iv. Number of relocations requested vs completed
  - d. Supportive Housing Case Management
    - i. Number of households served
    - ii. Bed/Unit utilization
    - iii. Rates of Permanent Housing
      1. Maintenance of housing in program
      2. Exits to other permanent housing
      3. Relocations within program to another PH unit
      4. Post-exit follow-up PH retention rates
    - iv. Rates of increased access to income and benefits
  - e. Narrative responses to questions that align with the Guiding Principles and Expectations
4. Work with HACC to finalize, then continually improve the quarterly “report card” template
5. Work with HACC to finalize, then continually improve on performance targets
6. Conduct post-program exit follow-up assessments at 6 and 12 months post-exit
  - a. Enter the results into HMIS
7. Prepare an annual participant feedback report
8. Submit to monitoring for contract compliance

HACC will:

1. Work with Contractor to continuously monitor demographics and outcomes, and to create any necessary quality improvement plans
2. Assist with achieving desired program outcomes and improving those outcomes
3. Communicate with Contractor in a timely manner when additional data metrics are determined
4. Use HMIS data to create and provide quarterly “report card” to Contractor
5. Work with SHS-funded agencies, as a group, to finalize, then continually improve the quarterly “report card” template
6. Work with HACC to finalize, then continually improve on performance targets
7. Work with Contractor to identify strengths and weaknesses apparent in programming through data
8. Review and identify strengths and weaknesses from participant feedback report with Contractor
9. Monitor for contract compliance

## Program Design

If all contracted households have been served and there is existing staff and funding capacity, Navigation and Placement (NP) and Supportive Housing Case Management (SHCM), will serve additional households in the following manner:

- Additional households to SHCM will be referred through CHA and supported with NP

assistance.

- Absent additional RLRA funds, NP programs will partner with existing housing programs, as directed by SHS team and informed by needs analyses.
- Vulnerable populations will be prioritized
  - Vulnerable populations include those with long homeless histories, incomes below 30% AMI, and one or more disabilities.
  - Due to a long history of systemic racism, oppression, and everyday micro and macro-aggressions, Black, Indigenous, and People of Color are also more vulnerable to the experience of homelessness.



**EXHIBIT B  
PERSONAL SERVICES CONTRACT  
BUDGET**

RFP #06-2021 Budget		
Line Item Category	Narrative/Description	Funds Requested
<b>Housing Navigation/Placement Services</b>		
Staff Salaries	2 FTE @ 41,600/FTE + .25 program supervision @ 55,000	\$ 96,950.00
Fringe Benefits	Health benefits + retirement	\$ 26,938.00
Taxes	state and federal tax withholdings	\$ 12,320.00
Telecommunications	internet and telephone	\$ 1,487.00
Office Equipment	computers for new staff	\$ 4,250.00
Office Supplies	costs for client files, paper, basic supplies	\$ 1,900.00
Mileage	mileage reimbursement @ .56/mile + \$111 in parking	\$ 2,926.00
Insurance		
Office Occupancy/Rent	total rent + utilities shared across FTE @ 357.33/FTE/Mo	\$ 9,648.00
Program Expenses	program printing and copying + materials	\$ 1,500.00
Client Move-in Costs		
Relocation Costs	Funds for the potential relocation of households currently in housing which need to be placed in a new unit.	\$ 10,000.00
Client Services/Flexible Funding	Funds for the assistance of households in meeting basic needs	\$ 37,500.00
<b>Housing Navigation/Placement Subtotal:</b>		<b>\$ 205,419.00</b>
<b>Supportive Housing Case Management Services</b>		
Staff Salaries	2 FTE @ 41,600/FTE + .25 program supervision @ 55,000	\$ 96,950.00
Fringe Benefits	Health benefits + retirement	\$ 26,938.00
Taxes	state and federal tax withholdings	\$ 12,321.00
Telecommunications	internet and telephone	\$ 1,487.00
Office Equipment	computers for new staff	\$ 4,250.00
Office Supplies	costs for client files, paper, basic supplies	\$ 1,900.00
Mileage	mileage reimbursement @ .56/mile + \$111 in parking	\$ 2,926.00
Insurance		
Office Occupancy/Rent	total rent + utilities shared across FTE @ 357.33/FTE/Mo	\$ 9,648.00
Program Expenses	program printing and copying + materials	\$ 1,500.00
Client Services/Flexible Funding	Funds for the assistance of households in meeting basic needs	\$ 37,500.00
<b>Supportive Housing Case Management Subtotal:</b>		<b>\$ 195,420.00</b>
<b>Administration</b>		
Indirect Administration	admin rate covers finance, HR, QA, payroll, program oversight	\$ 59,078.00
<b>Administration Subtotal:</b>		<b>\$ 59,078.00</b>
<b>Capacity Building For Culturally Specific Providers</b>		
Education/Training	staff training with average of \$750/FTE	\$ 3,000.00
<b>Capacity Building for Culturally Specific Providers Subtotal:</b>		<b>\$ 3,000.00</b>
<b>Total Funds Requested</b>		<b>\$ 462,917.00</b>

**EXHIBIT C  
PERSONAL SERVICES CONTRACT  
INVOICE TEMPLATE**

<b>INVOICE</b>				
FYXX (xx/xx/xxxx-xx/xx/xxxx) Fill in actual costs & submit electronically to HACCSHS@clackamas.us				
Contractor: _____		Billing Period (Month/Year): _____		
Project: _____		Contractor Invoice #: _____		
Address: _____		Contract #: _____		
_____		_____		
Contact: _____		Contract \$ Maximum: _____		
Phone #: _____		Contract Term: _____		
Email: _____		_____		
Date(s) of Goods/Services	Description - Please provide a <i>detailed</i> description of each line item including client name <small>*supplemental attachments are required for personnel and mileage reimbursements*</small>	Contracted Budget Line Item Category	Population A/B	Funds Requested
<b>Housing Navigation/Placement Services</b>				
<b>Housing Navigation/Placement Subtotal:</b>				\$ -
<b>Supportive Housing Case Management Services</b>				
<b>Supportive Housing Case Management Subtotal:</b>				\$ -
<b>Indirect Administration</b>				
<b>Administration Subtotal:</b>				\$ -
<b>Capacity Building For Culturally Specific Providers</b>				
<b>Capacity Building for Culturally Specific Providers Subtotal:</b>				\$ -
<b>Short-term Rent Assistance</b>				
<b>Short Term Rent Assistance Subtotal:</b>				\$ -
<b>Total Funds Requested:</b>				\$ -
<i>This form derives from the approved budget in your Agreement/Contract. Expenditures must have adequate supporting documentation. Clackamas County retains the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient pertinent to this Agreement/Contract.</i>				
PAYMENT TERMS: Submit itemized invoices by the 20th day of the month following the month services were performed.				
CERTIFICATION: I certify that this report is true and correct to the best of my knowledge and that all expenditures reported have been made in accordance with the budget and other provisions contained in the Agreement/Contract.				
Prepared by: _____		Date: _____		
Authorized Signer: _____		_____		
HOUSING AUTHORITY OF CLACKAMAS COUNTY, ACCOUNTS PAYABLE 13930 Gain St, Oregon City, OR 97045   Direct Line: (503) 655-8267   Fax: (503) 655-8676   HACCSHS@clackamas.us				

**Mileage Reimbursement Supplemental Form**

FYXX (xx/xx/xxxx-xx/xx/xxxx)

**Fill in actual costs & attach to the associated invoice**

Contractor _____	Billing Period (Month/Year) _____
Project _____	Contractor Invoice # _____
Address _____	Contract # <u>XXXX</u>
Contact _____	
Phone # _____	
Email _____	

Date of Travel	Name of Personnel and Client Served	# of miles traveled	Funds Requested
			\$
			\$
			\$
			\$
			\$
			\$
<b>Mileage Subtotal</b>			<b>\$</b>

*This form derives from the approved budget in your Agreement/Contract. Expenditures must have adequate supporting documentation. Clackamas County retains the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient pertinent to this Agreement/Contract.*

**PAYMENT TERMS:** Submit itemized invoices by the 20th day of the month following the month services were performed.

**CERTIFICATION:** I certify that this report is true and correct to the best of my knowledge and that all expenditures reported have been made in accordance with the budget and other provisions contained in the Agreement/Contract.

**Prepared by:** \_\_\_\_\_

**Authorized Signer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

HOUSING AUTHORITY OF CLACKAMAS COUNTY, ACCOUNTS PAYABLE

13930 Gain St, Oregon City, OR 97045 | Direct Line: (503) 655-8267 | Fax: (503) 655-8676 [HACCSHS@clackamas.us](mailto:HACCSHS@clackamas.us)

**Personnel Reimbursement Supplemental Form  
FYXX (xx/xx/xxxx-xx/xx/xxxx)**

**Fill in actual costs & attach to the associated invoice**

Contractor \_\_\_\_\_  
 Project \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 Contact \_\_\_\_\_  
 Phone # \_\_\_\_\_  
 Email \_\_\_\_\_

Billing Period  
(Month/Year) \_\_\_\_\_  
 Contractor  
 Invoice # \_\_\_\_\_  
 Contract # \_\_\_\_\_ XXXX

Days Worked	Name of Personnel	# of Hours Worked	Hourly Rate	Funds Requested
				\$
				\$
				\$
				\$
				\$
				\$
				\$
				\$
<b>Subtotal</b>			<b>Personnel</b>	<b>\$</b>

*This form derives from the approved budget in your Agreement/Contract. Expenditures must have adequate supporting documentation. Clackamas County retains the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient pertinent to this Agreement/Contract.*

**PAYMENT TERMS:** Submit itemized invoices by the 20th day of the month following the month services were performed.

**CERTIFICATION:** I certify that this report is true and correct to the best of my knowledge and that all expenditures reported have been made in accordance with the budget and other provisions contained in the Agreement/Contract.

**Prepared by:** \_\_\_\_\_  
**Authorized Signer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**HOUSING AUTHORITY OF CLACKAMAS COUNTY, ACCOUNTS PAYABLE**  
 13930 Gain St, Oregon City, OR 97045 | Direct Line: (503) 655-8267 | Fax: (503) 655-8676 | [HACCSHS@clackamas.us](mailto:HACCSHS@clackamas.us)

**EXHIBIT D  
PERSONAL SERVICES CONTRACT  
DEFINITIONS**

Culturally Responsive and Culturally Specific Services

HACC is using definitions of Culturally Responsive and Culturally Specific services developed through a collaborative Metro-wide work group.

Culturally Responsive

Culturally responsive services are general services that have been adapted to honor and align with the beliefs, practices, culture and linguistic needs of diverse consumer / client populations and communities whose members identify as having particular cultural or linguistic affiliations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language or language spoken at home. Culturally responsive services also refer to services provided in a way that is culturally responsive to the varied and intersecting “biological, social and cultural categories such as gender identity, class, ability, sexual orientation, religion, caste, and other axes of identity.” Culturally responsive organizations typically refer to organizations that possess the knowledge and capacity to respond to the issues of diverse, multicultural communities at multiple intervention points. Culturally responsive organizations affirmatively adopt and integrate the cultural and social norms and practices of the communities they serve. These agencies seek to comprehensively address internal power and privilege dynamics throughout their service delivery, personnel practices and leadership structure.

A culturally responsive organization is one that reflects the following characteristics:

- Prioritizes responsivity to the interests of communities experiencing inequities/racism and provides culturally grounded interventions [that] have been designed and developed starting from the values, behaviors, norms, and worldviews of the populations they are intended to serve, and therefore most closely connected to the lived experiences and core cultural constructs of the targeted populations and communities;
  - Affirmatively adopts and integrates the cultural and social norms and practices of the communities they serve;
  - Addresses power relationships comprehensively throughout its own organization, through both the types of services provided and its human resources practices. A key way of doing this is engaging in critical analysis of the organization’s cultural norms, relationships, and structures, and promoting those that support democratic engagement, healing relationships and environments;
  - Values and prioritizes relationships with people and communities experiencing inequities universally, paying particular attention to communities experiencing racism and discrimination;
  - Commits to continuous quality improvement by tracking and regularly reporting progress, and being deeply responsive to community needs; and
  - Strives to eliminate barriers and enhance what is working.
- Culturally responsive organizations seek to build change through these major domains:

- Organizational commitment, leadership, and governance;
- Racial equity policies and implementation practice;
- Organizational climate, culture, and communications;

- Service-based equity and relevance;
- Workforce composition and quality;
- Community collaboration;
- Resource allocation and contracting practices; and
- Data metrics and continuous quality improvement.

### Culturally Specific

Culturally specific services are services provided for specific populations based on their particular needs, where the majority of members/clients are reflective of that community, and use language, structures and settings familiar to the culture of the target population to create an environment of belonging and safety in which services are delivered. Culturally specific organizations typically refer to organizations with a majority of members/clients from a particular community. Culturally specific organizations also have a culturally focused organizational identity and environment, a positive track record of successful community engagement, and recognition from the community served as advancing the best interests of that community. Organizations providing Culturally Specific Services reflect the following characteristics:

- Programs are designed and continually shaped by community input to exist without structural, cultural, and linguistic barriers encountered by the community in dominant culture services or organizations AND designed to include structural, cultural and linguistic elements specific to the community's culture which create an environment of accessibility, belonging and safety in which individuals can thrive.
- Organizational leaders, decision-makers and staff have the knowledge, skills, and abilities to work with the community, including but not limited to expertise in language, core cultural constructs and institutions; impact of structural racism, individual racism and intergenerational trauma on the community and individuals; formal and informal relationships with community leaders; expertise in the culture's explicit and implicit social mores. Organizational leaders and decision-makers are engaged in improving overall community well-being, and addressing root causes.
- Intimate knowledge of lived experience of the community, including but not limited to the impact of structural or individual racism or discrimination on the community; knowledge of specific disparities documented in the community and how that influences the structure of their program or service; ability to describe the community's cultural practices, health and safety beliefs/practices, positive cultural identity/pride/resilience, immigration dynamics, religious beliefs, etc., and how their services have been adapted to those cultural norms.
- Provide multiple formal and informal channels for meaningful community engagement, participation and feedback at all levels of the organization (from service complaints to community participation at the leadership and board level). Those channels are constructed within the cultural norms, practices, and beliefs of the community, and affirm the positive cultural identity/pride/resilience of the community. Community participation can and does result in desired change.
- Commitment to a highly skilled and experienced workforce by employing robust recruitment, hiring and leadership development practices including but not limited to valuing and caring for community and/or lived experience; requirements for professional and personal references within the community; training standards professional development opportunities and performance monitoring.

- Commitment to safety and belonging through advocacy; design of services from the norms and worldviews of the community; reflect cultural constructs of the culturally specific community; understand and incorporate shared history; create rich support networks; engage all aspects of community; and address power relationships.

**Housing First Principles:**

- Few to no programmatic prerequisites to permanent housing entry
- Low barrier admission policies
- Rapid and streamlined entry into housing
- Supportive services are voluntary, but can and should be used to persistently engage tenants to ensure housing stability
- Tenants have full rights, responsibilities, and legal protections
- Practices and policies to prevent lease violations and evictions
- Evictions from housing do not result in termination from the program

For more information on housing first, visit: <https://endhomelessness.org/resource/housing-first/> and <https://www.hudexchange.info/resource/3892/housing-first-in-permanent-supportive-housing-brief/>



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 24, 2021

Board of Commissioners  
Clackamas County

Members of the Board:

**Approval of a Board Order Accepting a Request to Transfer Jurisdiction from  
Clackamas County to the City of Molalla of a Portion of  
S. Ona Way (County Road #1303, DTD #52003) to the City**

<b>Purpose/Outcomes</b>	Jurisdictional transfer of a portion of S. Ona Way
<b>Dollar Amount and Fiscal Impact</b>	Cost savings in the form of staff time and Maintenance monies used on County maintained portions of roads located entirely within the City of Molalla. No General funds used.
<b>Funding Source</b>	N/A
<b>Duration</b>	Upon execution; permanent
<b>Previous Board Action</b>	12/6/18: Approval of an IGA with the city of Molalla pursuant to this transfer approved. 10/7/21: Approval to set a hearing date for road transfer
<b>Strategic Plan Alignment</b>	-This transfer will directly align with our departments Business Plan goal of completing jurisdictional transfer of roads to cities. -The cost savings realized by this transfer will allow transparency for the budget.
<b>Counsel Review</b>	Reviewed and approved by County Counsel: NB 10/25/21
<b>Procurement Review</b>	Was this item processed through Procurement? No This item is a transfer of Jurisdiction
<b>Contact Person</b>	Michael Bays, Survey/CADD Supervisor; 503-742-4667

There are certain County roads, such as S. Ona Way in Molalla, that are wholly, mostly, or partially within various cities throughout Clackamas County. Fragmented jurisdiction over these roads often results in differing road maintenance activities and confusion by the public as to which agency is responsible for the operation and maintenance of the roads.

Clackamas County and the City of Molalla have agreed to the transfer of portions of S. Ona Way to the City with the intent of streamlining planned roadway improvements, eliminating confusion to the public and to improve the efficiencies of maintenance and public service. The portions of S. Ona Way to be transferred are located entirely within Molalla city limits.

On August 11, 2021 City of Molalla formally requested that the County fully transfer jurisdiction over portions of S. Ona Way over to the City pursuant to ORS 373.270(6), in Resolution 2021-



22. Pursuant to ORS 373.270(7), the County may finalize the transfer by adopting the proposed order at a formal hearing.

By accepting jurisdiction over portions S. Ona Way, with approximate right of way area of 52,800 square feet, the City becomes the "Road Authority" responsible for all maintenance, improvement, permitting, and road standard activities.

**RECOMMENDATION:**

Staff respectfully requests that the Board approve this Board Order related to the transfer of jurisdiction over portions of S. Ona Way.

Respectfully submitted,

*Michael Bays*

Michael Bays -Survey/CADD Supervisor

Attachments:

Board Order

Exhibits

City of Molalla Resolution

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

In the matter of transferring to the City of Molalla, jurisdiction over S. Ona Way, County Road No. 1303, DTD Nos. 52003



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

Page 1 of 1

This matter coming before the Board of County Commissioners as a result of a request from the City of Molalla, by Resolution Number 2021-22, dated August 11, 2021 and the preceding negotiation between the City of Molalla and Clackamas County Department of Transportation and Development to transfer portions of the following road, more particularly described in Exhibit "A" and more particularly depicted in Exhibit "B" both of which are attached to this Order.

<u>Road Name</u>	<u>Cnty #</u>	<u>DTD #</u>	<u>From</u>	<u>To</u>	<u>Square Feet</u>
S. Ona Way	13003	52003	MP 0.00	MP 0.25	52,800; and,

It further appearing to the Board that said transfer of jurisdiction has been recommended by Dan Johnson, Director of the Department of Transportation and Development and the Clackamas County Road Official; and,

It further appearing to the Board that pursuant to ORS 373.270, notice of the hearing on this matter was provided by publication in the Clackamas Review on 10/24, 11/03, 11/10 and 11/17; now therefore,

IT IS HEREBY ORDERED that jurisdiction of a portion of S. Ona Way shall be transferred, Clackamas County jurisdiction shall cease, and full and absolute jurisdiction of said portions of roadway is transferred to the City of Molalla as of the date of this Order; and,

IT IS FURTHER ORDERED that 52,800 square feet, more or less, be removed from the County's Road Inventory; and,

IT IS FURTHER ORDERED that copies of this Order be submitted to the Clackamas County Clerk's office for recording and that copies be subsequently sent without charge to the Clackamas County Surveyor, Tax Assessor, Finance/Fixed Asset Offices, and DTD Engineering.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

BOARD OF COUNTY COMMISSIONERS

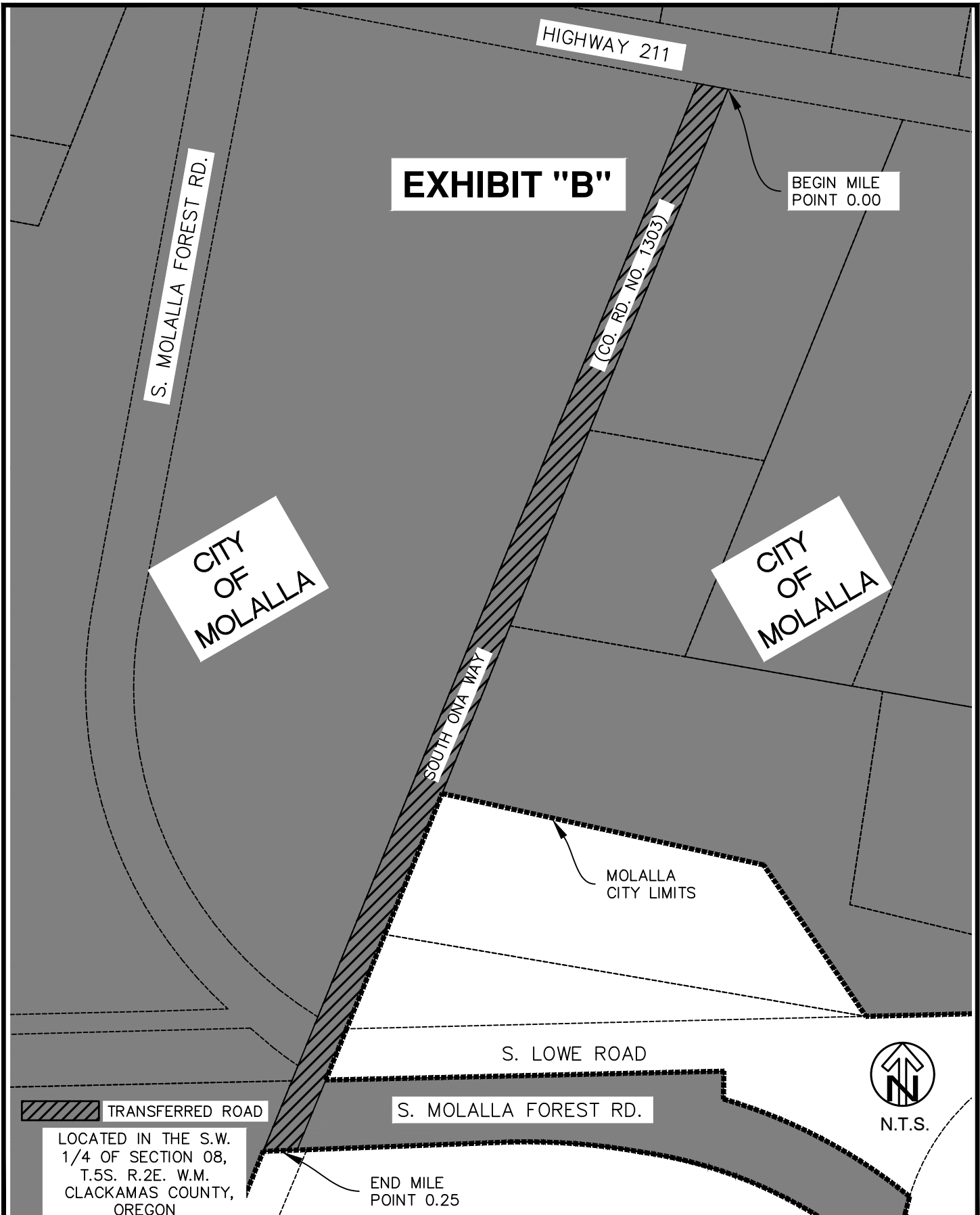
\_\_\_\_\_  
Chair

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

## EXHIBIT A

All that portion of S. Ona Way, County Road No. 1303, as shown on Exhibit "B", attached hereto and by this reference a part hereof, said road lying south of and between the southerly right of way line of State Highway 211 (mile point 0.00) and the southerly right of way line of South Molalla Forest road (mile point 0.25), said road being approximately 1320' long and 40' wide.

Containing 52,800 square feet, more or less.



**EXHIBIT "B"**

HIGHWAY 211

S. MOLALLA FOREST RD.

BEGIN MILE POINT 0.00

(CO. RD. NO. 1303)

CITY OF MOLALLA

CITY OF MOLALLA

SOUTH ONA WAY

MOLALLA CITY LIMITS

S. LOWE ROAD

S. MOLALLA FOREST RD.



N.T.S.

TRANSFERRED ROAD

LOCATED IN THE S.W. 1/4 OF SECTION 08, T.5S. R.2E. W.M. CLACKAMAS COUNTY, OREGON

END MILE POINT 0.25





**RESOLUTION NO. 2021-22**

**A RESOLUTION OF THE CITY OF MOLALLA, OREGON  
TRANSFERRING JURISDICTIONAL AUTHORITY OF A SECTION OF S. ONA  
WAY TO THE CITY OF MOLALLA**

**WHEREAS**, ORS 373.270 authorizes the transfer of jurisdiction over a county road within a city;  
and

**WHEREAS**, the portions of S. Ona Way, County Road No. 1303, lying south of and between the southerly right of way line of State Highway 211 (mile point 0.00) and the southerly right of way line of South Molalla Forest Road (mile point 0.25), said road being approximately 1320' long and 40' wide, subject to this resolution are located entirely within the boundaries of the City and are County Roads, as defined in ORS 368.001; and

**WHEREAS**, the City of Molalla is best suited to assume primary responsibility for operation, maintenance and permitting of S. Ona Way described above; and

**WHEREAS**, Clackamas County completed a roadway reconstruction on S. Ona Way; and

**WHEREAS**, pursuant to ORS 373.270, the City Council is requesting a jurisdictional transfer of S. Ona Way from Clackamas County to the City to better manage and control frontage and road improvements, and to direct maintenance activities.

**Now, Therefore, the City of Molalla Resolves as follows:**

**Section 1.** The City of Molalla formally requests the full and absolute transfer of jurisdiction over S. Ona Way, as described in Exhibit "A" and shown in Exhibit "B", pursuant to ORS 373.270 and the approved Intergovernmental agreement between the City of Molalla and Clackamas County related to the transfer of a portion of S. Ona Way.

**Section 2.** This Resolution is and shall be effective upon adoption by City Council and ratification by the Clackamas County Commission under its Resolution.

Signed this 11<sup>th</sup> day of AUGUST 2021.

  
\_\_\_\_\_  
Scott Keyser, Mayor

ATTEST:

  
\_\_\_\_\_

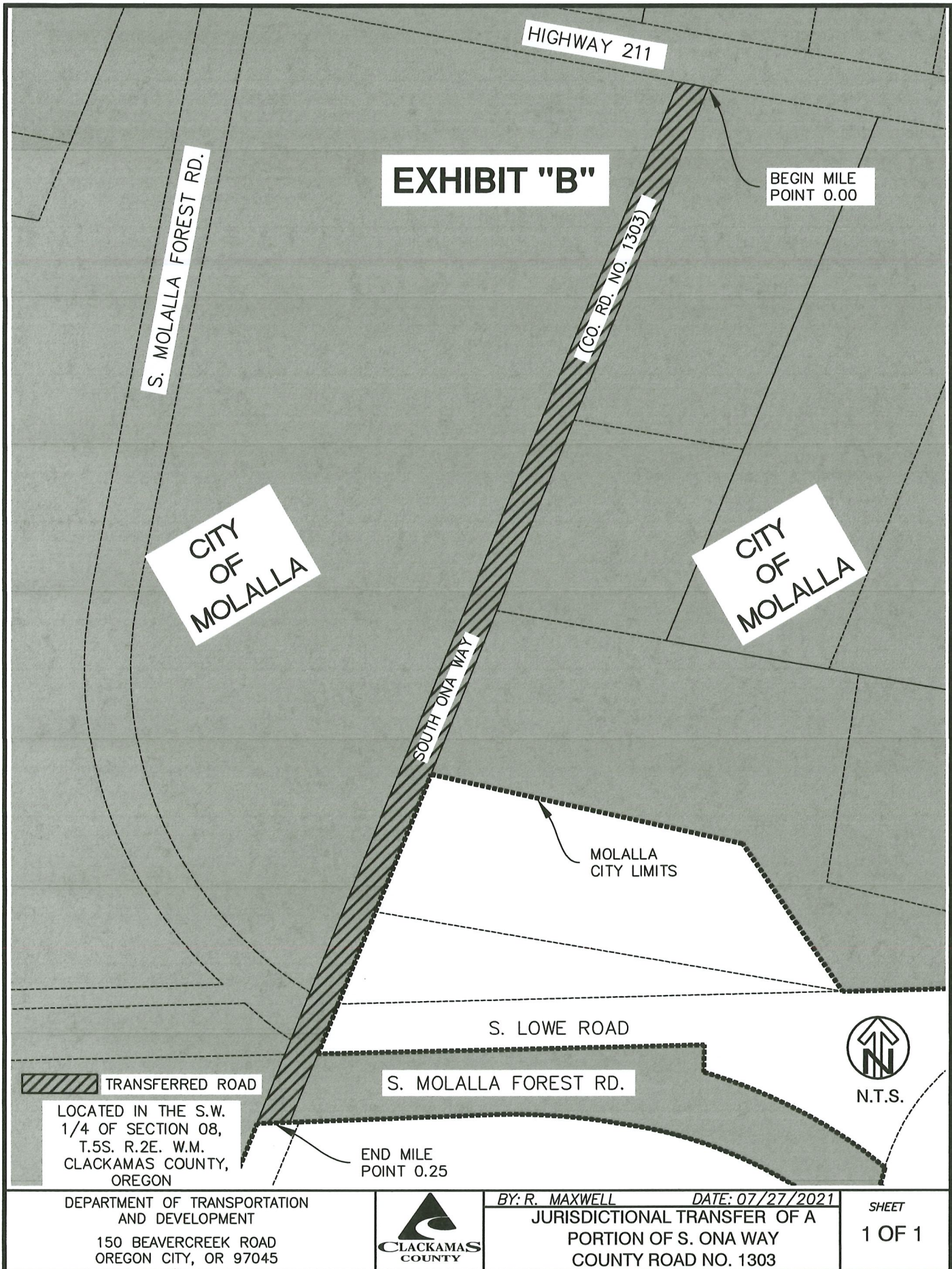
Christie Teets, City Recorder

EXHIBIT A

All that portion of S. Ona Way, County Road No. 1303, as shown on Exhibit "B", attached hereto and by this reference a part hereof, said road lying south of and between the southerly right of way line of State Highway 211 (mile point 0.00) and the southerly right of way line of South Molalla Forest road (mile point 0.25), said road being approximately 1320' long and 40' wide.

Containing 52,800 square feet, more or less.





**EXHIBIT "B"**

HIGHWAY 211

S. MOLALLA FOREST RD.

BEGIN MILE POINT 0.00

(CO. RD. NO. 1303)

CITY OF MOLALLA

CITY OF MOLALLA

SOUTH OÑA WAY

MOLALLA CITY LIMITS

S. LOWE ROAD

S. MOLALLA FOREST RD.

TRANSFERRED ROAD

LOCATED IN THE S.W. 1/4 OF SECTION 08, T.5S. R.2E. W.M. CLACKAMAS COUNTY, OREGON

END MILE POINT 0.25



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
150 BEAVERCREEK ROAD  
OREGON CITY, OR 97045



BY: R. MAXWELL DATE: 07/27/2021  
JURISDICTIONAL TRANSFER OF A PORTION OF S. OÑA WAY COUNTY ROAD NO. 1303

SHEET 1 OF 1

November 24, 2021

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of Non-Federal Subrecipient Grant Agreement Amendment #2 with The Father’s Heart Street Ministry for Warming Center Services in the Amount of \$98,136 with No General Funds, Funded by the State of Oregon, Housing & Community Services Department

<b>Purpose/Outcomes</b>	Approval of Amendment #2 in which The Father’s Heart Street Ministry will provide overnight warming center services to un-housed individuals in Clackamas County during periods of extreme cold.
<b>Dollar Amount and Fiscal Impact</b>	\$98,136 in FY21-22
<b>Funding Source</b>	State of Oregon, Housing & Community Services Department, State Homeless Assistance Funds (SHAP)
<b>Duration</b>	Amendment is effective upon signature, with an eligible grant expenditure period of October 1, 2021 – June 30, 2022.
<b>Previous Board Action/Review</b>	The original agreement was approved by the Board on 10-31-19. Amendment #1 was approved by the H3S Director on 11-19-20. Item at County Issues: 12-7-21
<b>Strategic Plan Alignment</b>	1. This funding aligns with H3S’s strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the County’s strategic priority to ensure safe, healthy and secure communities.
<b>Counsel Review</b>	This Grant Amendment was reviewed and approved by County Counsel on 11-23-21 by Andrew Naylor.
<b>Procurement Review</b>	1. Was the item processed through Procurement? No 2. If no, provide brief explanation: This is a grant amendment, not subject to Procurement review.
<b>Contact Person</b>	Brenda Durbin, Social Services Director (503)655-8641
<b>Contract No.</b>	H3S# 9499

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services Department requests approval of a Grant Amendment with The Father’s Heart Street Ministry (TFH). TFH will provide overnight warming center services to unhoused individuals in Clackamas County during periods of extreme cold.



This Grant Amendment increases the maximum value of the Agreement by \$98,136 for a total value of \$289,228. The Amendment was approved by County Counsel and is effective upon signature by all parties. The eligible grant expenditure period is October 1, 2021 through June 30, 2022. The funding source is the State of Oregon, Housing & Community Services Department, State Homeless Assistance Program Funds. There are no County General Funds involved.

**RECOMMENDATION:**

Staff recommends the Board approval of this Grant Amendment, and requests authorization for Tootie Smith, Board Chair, to sign.

Respectfully submitted,

A handwritten signature in cursive script that reads "Rodney Cook".

Rodney A. Cook, Director  
Health, Housing and Human Services Department

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

H3S Contract Number 9499 Board Agenda Number \_\_\_\_\_

and Date 12-9-2021

Division Social Services Amendment No. 2

Contractor The Father's Heart Street Ministry

Amendment Requested By Brenda Durbin, Director

Changes:       Scope of Services                       Grant Budget  
                     Grant Time                                       Other Special Requirements

**Justification for Amendment:**

This Amendment #2 is entered into between The Father's Heart Street Ministry ("Contractor") and Clackamas County ("County") and shall become part of that Agency Service grant agreement ("Contract") entered into between both parties on October 31, 2019.

This Amendment #2 incorporates 21-23 biennium subrecipient pass-through funder requirements from the State of Oregon Housing & Community Services Department, an approved bednight rate of \$35 per individual per night, extends the agreement by one year to June 30, 2022, and adds funding.

The Amendment #2 will be effective upon signature, increasing funding by \$98,136 with Oregon Housing and Community Services, State Homeless Assistance Program dollars. This Amendment #2 has an eligible grant expenditure period in Year Three of October 1, 2021 to June 30, 2022. The expenditure periods align within the revenue grant eligible expenditure dates.

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

---

**REPLACE ARTICLE I, Paragraph 1 with the following:**

1. Effective Date and Duration. This Contract shall become effective November 1, 2019. Eligible expenses to this Contract may be charged during the period between November 1, 2019 and June 30, 2022.

**REPLACE ARTICLE I, Paragraph 3, Consideration, with the following:**

Consideration. The County agrees to pay Contractor, from available and authorized funds, for eligible expenses up to an annual ***amount as specified in Table 1***, for a total Contract sum not to exceed ***Two Hundred Eighty-Nine Thousand, Two Hundred Twenty-Eight Dollars (\$289,228)*** for accomplishing the Work required by this Contract. Year One contract term is November 1, 2019 to June 30, 2020. Year Two contract term is November 1, 2020 to June 30, 2021.

***Year Three eligible grant expenditure period is October 1, 2021 to June 30, 2022.***

Payments shall be made in accordance with Exhibit A, and:

- are on a rate basis for bednights and day shelter as confirmed by County;
- are on a cost-reimbursement for Homeless Management Information System (HMIS) fees and licensing;
- ***include a cost-reimbursement up to \$1,000 toward the property damage deductible of each claim of damage to the Center, not to exceed the total amount of their deductible;***
- ***County will pay Contractor \$250 for each staff who provides a certificate of completion for attending a Mental Health First Aid training, in order to increase the capacity of organizations to meet the behavioral health needs of guests, and in consideration of the staff time required to attend the training. Free classes are available at [Gettrainedtohelp.org](http://Gettrainedtohelp.org). Volunteers are strongly encouraged to take the training, but the County will not provide payment for volunteers who attend the training.***

**AMEND EXHIBIT A, Section I. SCOPE OF WORK, paragraph A. 3, item b to add the following:**

***Warming Center and Day Shelter services must be activated as temperature and wind chill are met, annually between November 1 and April 15.***

**AMEND EXHIBIT A, Section I. SCOPE OF WORK, paragraph A. 10, item b to add the following:**

***During Year Three, if a walk-through by Clackamas County Public Health officials, or anyother requirements deemed essential by County, are required prior to opening for the 2021-2022 winter shelter season, or at any time during operations, County will notify Contractor.***

**AMEND EXHIBIT A, Section III. COMPENSATION**

A. The Contractor is eligible for an amount not to exceed Ninety-Five Thousand, Five Hundred and Forty-Six Dollars (\$95,546) from November 1, 2019 to June 30, 2020 during Year One, and Ninety-Five Thousand, Five Hundred and Forty-Six Dollars (\$95,546) from November 1, 2020 to June 30, 2021 during Year Two as specified under the conditions listed in Section I.

Annually, the period of April 16 to June 30 is considered a reporting period, and is not a period of time that is eligible for bednights or day shelter. An exception is made for HMIS reimbursement of licensing and fees if invoicing by County Community Development occurs during the reporting period.

a. The Contract budget categories and maximum eligible expenditures are as follows.

Budget Category	Description/ Rate or Amount	A	B	C
		Year One Budget	Year Two Budget	TOTAL
Bednights	\$33/night per County confirmed individual	\$94,636	\$94,636	\$189,272
Day Shelter	\$25 per County confirmed individual for day shelter services based on the number of individuals in the warming center the previous night			
HMIS Reimbursement of Licenses and Fees	Reimbursement of actual expense charged to Contractor by County Community Development division.	\$910	\$910	\$1,820
<b>TOTAL</b>		<b>\$95,546</b>	<b>\$95,546</b>	<b>\$191,092</b>

A. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. All per person per night or day shelter payments are contingent upon timely, accurate and complete data collection and reporting. Completed HMIS data and sign in sheets are due no later than the 10th of the month following the month services were provided. Invoices are due no later than the 15th, of the month following the month services were provided. Items submitted after these due dates will not be reimburseable, unless special circumstances occur and reimbursement is approved by County Contract Administrator.

- B. If Contractor fails to present invoices in proper form by the 15th of the month following the month services were provided, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices for services in the month of June (if applicable) will be due no later than July 10 to meet County fiscal year deadlines. 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. Invoice template to be provided to Contractor by County.
- C. If reimbursement is requested for HMIS licensing and fees, the invoice shall include backup documentation to substantiate the expenses, such as the invoice from the County Community Development division.
- D. Reimbursement by County will be within 30 days of receipt of County-verified invoice, including required data and backup documentation.
- E. The Contractor may begin accruing expenditures eligible for reimbursement under this Contract November 1 of each contract year if opening of warming center site is required under severe weather conditions. Reimbursement shall not occur until the County has a fully executed Contract.
- F. Contractor may request that up to ten percent (10%) of the maximum annual contract payment be issued at time of contract execution, and deducted in equal portions from the November, December, January, February and March invoice payments. County may elect to adjust the amount deducted if needed and if Contractor's invoice totals would not allow.
- G. Contractor will be paid a rate of \$33.00 per County-confirmed guest per authorized severe weather night up to the contracted annual maximum and will not exceed the maximum capacity permitted by local Fire and/or Health Department. A minimum of four beds will be paid for whether or not all four beds are occupied during nights the shelter is open. However, should any nights occur when no beds are occupied, County must be notified within 12 hours. If a warming center is open three nights (consecutive or non-consecutive) and no individuals seek shelter, the contract may be reduced or terminated.
- H. Contractor will be paid at a rate of \$25.00 per County-confirmed guest per authorized day shelter up to the contracted annual maximum and will not exceed the maximum capacity permitted. Day shelter will be based on the County-confirmed number of individuals in the warming center the previous night.

**TO READ:**

- A. The Contractor is eligible for an amount not to exceed Ninety-Five Thousand, Five Hundred and Forty-Six Dollars (\$95,546) from November 1, 2019 to June 30, 2020 during Year One, and Ninety-Five Thousand, Five Hundred and Forty-Six Dollars (\$95,546) from November 1, 2020 to June 30, 2021 during Year Two as specified under the conditions listed in Section I.

***The Contractor is eligible for an amount not to exceed Ninety-Eight Thousand, One Hundred Thirty-Six Dollars (\$98,136) from October 1, 2021 to June 30, 2022 during Year Three as specified under the conditions listed in Section I.***

Annually, the period of April 16 to June 30 is considered a reporting period, and is not a period of time that is eligible for bednights or day shelter. An exception is made for HMIS reimbursement of licensing and fees if invoicing by County Community Development occurs during the reporting period.

**The total amount Contractor is eligible for under this Contract may not exceed Two Hundred Eighty-Nine Thousand, Two Hundred Twenty-Eight Dollars (\$289,228).**

a. The Contract budget categories and maximum eligible expenditures are as follows.

**Table 1**

Budget Category	Description/Rate or Amount	A	B	C	D
		Year One Budget	Year Two Budget	Year Three Budget	TOTAL
Bednights	\$33/night <b>(during Year One &amp; Year Two) and \$35/day (Year Three)</b> per County-confirmed individual	\$94,636	\$94,636	<b>\$94,636</b>	<b>\$283,908</b>
Day Shelter	\$33/day <b>(during Year One &amp; Year Two) and \$35/day (Year Three)</b> per County-confirmed individual for day shelter services based on the number of individuals in the warming center the previous night				
HMIS Reimbursement of Licenses and Fees	Reimbursement of actual expense charged to Contractor by County Community Development division.	\$910	\$910	<b>\$1,000</b>	<b>\$2,820</b>
<b>Damages</b>	<b>Cost-reimbursement up to \$1,000 toward the property damage deductible of each claim of damage to the Center, not to exceed the total amount of their deductible.</b>	<b>0</b>	<b>0</b>	<b>\$1,000</b>	<b>\$1,000</b>
<b>Mental Health First Aid training</b>	<b>\$250 paid to Contractor for each staff who provides a certificate of completion for attending a Mental Health First Aid training</b>	0	0	<b>\$1,500</b>	<b>\$1,500</b>
<b>TOTAL</b>		Year One Budget \$95,546	Year Two Budget \$95,546	<b>Year Three Budget \$98,136</b>	<b>Contract Maximum: \$289,228</b>

**COUNTY may, in its sole discretion, approve adjustments to all encumbrance lines and budget categories.**

A. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. All per person per night or day shelter payments are contingent upon timely, accurate and complete data collection and reporting. Completed HMIS data and sign in sheets are due no later than the 10th of the month following the month services were provided. Invoices are due no later than the 15th, of the month following the month services were provided. Items submitted after these due dates will not be reimburseable, unless special circumstances occur and reimbursement is approved by County Contract Administrator.

B. If Contractor fails to present invoices in proper form by the 15th of the month following the month services were provided, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices for services in the month of June (if applicable) will be due no later than July 10 to meet County fiscal year deadlines. 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. Invoice template to be provided to Contractor by County.

C. If reimbursement is requested for HMIS licensing and fees, the invoice shall include backup documentation to substantiate the expenses, such as the invoice from the County Community Development division.

D. Reimbursement by County will be within 30 days of receipt of County-verified invoice, including required data and backup documentation.

E. The Contractor may begin accruing expenditures eligible for reimbursement under this Contract October 29 of Year One and November 1 of Year Two if opening of warming center site is required under severe weather conditions.

**Year Three eligible grant expenditure period is October 1, 2021 to June 30, 2022.**

Reimbursement shall not occur until the County has a fully executed Contract.

F. Contractor may request that up to ten percent (10%) of the maximum annual contract payment be issued at time of contract execution, and deducted in equal portions from the November, December, January, February and March invoice payments. County may elect to adjust the amount deducted if needed and if Contractor's invoice totals would not allow.

G. Contractor will be paid a rate of \$33.00 per County-confirmed guest per authorized severe weather night up to the contracted annual maximum and will not exceed the maximum capacity permitted by local Fire and/or Health Department. A minimum of 4 beds will be paid for whether or not all 4 beds are occupied during nights the shelter is open. However, should any nights occur when no beds are occupied, County must be notified within 12 hours. If a warming center is open three nights (consecutive or non-consecutive) and no individuals seek shelter, the contract may be reduced or terminated.

H. Contractor will be paid at a rate of \$33.00 per County-confirmed guest per authorized day

shelter up to the contracted annual maximum and will not exceed the maximum capacity permitted. Day shelter will be based on the County-confirmed number of individuals in the warming center the previous night.

***I. Under Year Three, Contractor will be paid a rate of \$35.00 per County-confirmed guest per authorized severe weather night up to the contracted annual maximum and will not exceed the maximum capacity permitted by local Fire and/or Health Department. If either no guests, or 10 or less guests, arrive during a severe weather night, County will pay Contractor for a minimum of 10 beds. However, County will pay Contractor the actual number of County-confirmed beds if guests exceed 10. In addition, should any nights occur when no beds are occupied, County must be notified within 12 hours of shelter closure. If a warming center is open three nights (consecutive or non-consecutive) and no individuals seek shelter, the bed services may be reduced or the Agreement terminated at County's discretion.***

***J. Under Year Three, Contractor will be paid at a rate of \$35.00 per County-confirmed guest per authorized day shelter up to the contracted annual maximum and will not exceed the maximum capacity permitted. Day shelter will be based on the County-confirmed number of individuals in the warming center the previous night.***

**AMEND EXHIBIT A, Section IV. TERMS/CONDITIONS, TO INCLUDE THE FOLLOWING  
ADDITIONAL TERMS AND CONDITIONS:**

***Under Amendment #2, Year Three, Contractor's application, including Appendix A, Certification and Assurances Form, submitted to County in response to the County's Notice of Funding Opportunity: To Provide Extreme Weather And Smoke Center Sites And Services, And Associated Volunteer Coordination And Behavioral Health Support Services, To Persons Who Are Un-Housed In Clackamas County issued on August 30, 2021 is hereby incorporated by reference into this Contract.***

***Contractor will comply with COUNTY'S 21-23 Biennium Master Grant Agreement, #7005, H3S#10239 issued to COUNTY by Oregon Housing and Community Services (OHCS), the State Homeless Funds Program Operations Manual, published date: July 1, 2020 and all amended versions released by OHCS as applicable.***


***All highlighted terms and conditions in the Master Grant Agreement, and Master Grant Agreement Exhibits A-1, B, C, E, F and G attached hereto and incorporated by this reference herein, are hereby incorporated into this Agreement. Contractor will comply with the highlighted terms and conditions in the Exhibits as if Contractor were the Subgrantee's (COUNTY'S) Subrecipient under that agreement, as well as any other term or condition set forth in the aforementioned Exhibits as may be required by OHCS:***

- ***2021-23 Master Grant Agreement***
- ***2021-23 Master Grant Agreement Exhibit A-1, Definitions***
- ***Master Grant Agreement 2021-23 Exhibit B: Standard Terms & Conditions***
- ***Master Grant Agreement 2021-23 Exhibit C: Special Provisions***
- ***Master Grant Agreement 2021-23 Exhibit E: Historic Preservation***
- ***2021-23 Master Grant Agreement Exhibit F, Program Element, General Terms and Conditions***
- ***2021-23 Master Grant Agreement Exhibit G, Program Element PE 04, State Homeless Assistance Program (SHAP)***



IN WITNESS WHEREOF, the parties hereto have caused this Amendment #2 to be executed by their duly authorized officers.

**AGENCY**  
THE FATHER'S HEART STREET MINISTRY

By:   
Marty Gant, President

11/23/21  
Date

603 12<sup>th</sup> Street  
Street Address

Oregon City, OR 97045  
City / State / Zip  
503/722-9780 /   
Phone / Fax

Oregon Business Registry#: 215651-97  
Tax ID#: 65-1224857  
Email: mgant@tfhsm.org


**CLACKAMAS COUNTY**  
Commissioner: Tootie Smith, Chair  
Commissioner: Sonya Fischer  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Mark Shull

Clackamas County:

Tootie Smith, Chair  
Board of County Commissioners

Date

Approved as to Form:

 11/23/2021  
County Counsel Date

# **MASTER GRANT AGREEMENT 21-23 #7005**

## **INTRODUCTION**

This **2021-23 Master Grant Agreement #7005** (this "Agreement" or "MGA") is entered into by and between the State of Oregon, acting by and through its **Housing and Community Services Department**, together with its successors and assigns hereinafter referred to collectively as "OHCS" or "Department" and **Clackamas County, acting by and through its Health, Housing and Human Services Department**, hereinafter referred to as "Subgrantee".

### **RECITALS**

- A. Oregon Revised Statute ("ORS") chapters 456 and 458 authorize the Department to collaborate and cooperate with the community action agency network in providing community services programs in the state as a delivery system for federal and state antipoverty programs to promote outreach, communication, advancement, and related community services with respect to Department programs.
- B. ORS chapters 456 and 458 authorize the Department to receive and disburse funds made available for these purposes;
- C. Subgrantee has established and proposes, during the term of this Agreement, to operate or contract for the operation of the Departments programs in accordance with the federal and state regulations, rules, policies and procedures of the Department;

### **AGREEMENT**

NOW THEREFORE, for good and sufficient consideration, including the terms and conditions herein, it is agreed by and between the parties hereto as follows:

- 1. **Incorporation of Recitals.** The foregoing Recitals, the Implementation Report (as later defined), the Notice or Notices of Allocation (NOAs) (as later defined), and the Exhibits hereto are incorporated into this Agreement by reference, except that the Recitals, the Implementation Report, the NOAs, and the Exhibits do not modify this Agreement's express provisions.
- 2. **Effective Date and Duration.** When all parties hereto have executed this Agreement, and all necessary approvals have been obtained (the "Executed Date"), this Agreement is effective and has a funding start date of **July 1, 2021** (the "Effective Date"). Unless terminated earlier in accordance with its terms, or extended for time with a written amendment, this Agreement shall terminate on **June 30, 2023**.
- 3. **Consideration.** While there is no guarantee of funding under this Agreement, it authorizes OHCS to provide grant funding to subgrantee up to an amount not to exceed **\$31,747,027.00** (the "Grant Funds"). The grant funds available to Subgrantee through OHCS are contingent on OHCS receiving federal awards, state funds, and limitation. These grant funds may be allocated by OHCS to Subgrantee upon availability to OHCS through the Notice of Allocation process, as later defined in this Agreement. Allocations will be made by OHCS in accordance with applicable Program periods, funding formulas, or otherwise as applicable.
- 4. **Grant Managers.**
  - 4.1. OHCS Grant Managers:

Mike Savara, Assistant Director of Homeless Services  
725 Summer Street NE, Suite B  
Salem, OR 97301  
Phone: (503) 931-5944  
Email: [Mike.Savara@oregon.gov](mailto:Mike.Savara@oregon.gov)

Laura Lien, Assistant Director of Homeless Services  
725 Summer Street NE, Suite B  
Salem, OR 97301

## **MASTER GRANT AGREEMENT 21-23 #7005**

Phone: (503) 580-9335

Email: [Laura.Lien@oregon.gov](mailto:Laura.Lien@oregon.gov)

Tim Zimmer, Assistant Director of Energy and Weatherization Services

725 Summer Street NE, Suite B

Salem, OR 97301

Phone: (503) 986-2067

Email: [Tim.Zimmer@oregon.gov](mailto:Tim.Zimmer@oregon.gov)

4 2. Subgrantee's Grant Manager is:

Jessica Diridoni

2051 Kaen Rd, PO Box 2950

Oregon City, OR 97045

Phone: (503) 894-0968

Email: [JDiridoni@clackamas.us](mailto:JDiridoni@clackamas.us)

5. **Agreement Documents, Order of Precedence.** This Agreement consists of the following documents that are listed in descending order of precedence:

- This Agreement less all Exhibits and Attachments
- Exhibit A – Definitions;
  - Implementation Report Attachments (as applicable)
  - Program Elements (as applicable)
- Exhibit B - Standard Terms and Conditions
- Exhibit C – Special Provisions
- Exhibit D - Federal Assurances
- Exhibit E - Oregon State Historic Preservation Office Agreement

All of the foregoing Exhibits are attached hereto and incorporated herein by this reference

6. **DIVERSITY, EQUITY AND INCLUSION.** Building Community Action Agency organizational capacity to provide inclusive services to diverse constituencies is a first step to ensure equitable and culturally responsive services for all Oregonians in need. OHCS and subgrantee commit to intentional, data driven approach to reduce disparities in housing and social service provision. OHCS commits to creating a system to analyze OHCS-funded programs and remove identified barriers to accessing opportunities within those programs.

7. **CERTIFICATIONS AND SIGNATURE OF SUBGRANTEE'S AUTHORIZED REPRESENTATIVE.**

THIS AGREEMENT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF SUBGRANTEE.

The undersigned certifies under penalty of perjury both individually and on behalf of Subgrantee that:

A. The undersigned is a duly authorized representative of Subgrantee, has been authorized by Subgrantee to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Subgrantee;

B. By signature on this Agreement for Subgrantee, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Subgrantee and that Subgrantee is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620;

C. To the best of the undersigned's knowledge, Subgrantee has not discriminated against and will not discriminate

## **MASTER GRANT AGREEMENT 21-23 #7005**

against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

D. Subgrantee and Subgrantee's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists>;

E. Subgrantee has sufficient staffing and operation capacity to expend the Grant Funds;

F. Subgrantee acknowledges that OHCS reserves the right to reduce Subgrantee funding as it determines to be appropriate in its sole discretion and redistribute such funds to other eligible providers with the goal of minimizing service disruption and ensure funds are utilized; and

G. Subgrantee is bound by and will comply, and require its subrecipients to comply, with all federal, state, and local laws, regulations, requirements, terms and conditions contained in and as applicable to this Agreement.

*[Signature Page Follows]*

**MASTER GRANT AGREEMENT 21-23 #7005**

**SUBGRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT SUBGRANTEE HAS READ THE AGREEMENT, UNDERSTANDS IT, HAS THE LEGAL AUTHORITY TO BIND, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

Authorized Signature:  Date: 8/5/2021

Name (Print): Tootie Smith Title: Board Chair

Telephone Number: 503-655-8581 E-Mail Address: bcc@clackamas.us

DUNS #: 096992656

Fiscal Contact Name (Print): Jennifer Snook Title: Management Analyst Senior

E-Mail Address: Jennifersno@clackamas.us Phone #: 503-655-8760

**8. SIGNATURE OF STATE'S AUTHORIZED REPRESENTATIVE.**

State of Oregon acting by and through its  
Housing and Community Services Department  
725 Summer Street NE Suite B, Salem, OR 97301

Authorized Signature:   
Margaret Solle Salazar, Director or designee Date

**DEPARTMENT OF JUSTICE**

Approved for Legal Sufficiency by: Hannah P. Fenley, pursuant to OAR 137-045-0015(3), June 16, 2021

*(The remainder of this page is intentionally left blank.)*

## 2021-2023 MASTER GRANT AGREEMENT

### Exhibit A, Definitions

July 1, 2021

#### **Definitions**

Certain words and phrases in this agreement, including but not limited to the, applicable Program Element have the meanings provided herein, as stated in federal, state, local laws, regulations, and rules or as otherwise provided by OHCS, unless the context clearly requires otherwise:

<b>Word/Phrase</b>	<b>Program Applicability:</b>	<b>Meaning</b>
“Allocation”	All Programs	Means an amount of funding made available to a CAA to be used for a specific purpose.
“Allowable Cost”	All Programs	Means the costs described in the 2 CFR Subtitle B with guidance at 2 CFR Part 200, except to the extent such costs are limited or excluded by other provisions of the Agreement, whether in the applicable NOAs, Program Elements, or otherwise.
“Applicant”	All Programs	Means any person who applies to receive program benefits.
“ASHRAE”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.
“Assurance 16 funds”	LIHEAP	Means the portion of LIHEAP funds used by states to provide services, including needs assessments, counseling, and assistance with energy vendors, that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance.
“Baseload services”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means any measure that reduces non- heating and cooling costs. These measures can include, but are not limited to, energy efficient lighting, water saving devices, and high efficiency water heaters.
“Client”	All Programs	Means, with respect to a particular Program Element, any individual who is receiving those program services for or through the Subgrantee.
“Committed”	All Programs	Means an amount of funding reserved for specific client or project that subgrantee believes, in their best judgement, will be spent but hasn’t been requested from OHCS.
“Crisis assistance”	LIHEAP, OEAP	Means the assistance provided to low-income households for crisis situations such as supply shortages, loss of Household heating or cooling or other situations approved by OHCS as described in the LIHEAP state plan and the energy assistance operations manual.
“Crisis assistance”	EAS-CRF	Means the bill payment assistance provided to low-income households for crisis situations such as supply shortages or other situations as described in the energy assistance operations manual.



"Culturally Specific Organization"	All Programs	Means an entity that provides services to a cultural community and the entity has the following characteristics: <ul style="list-style-type: none"> <li>(a) Majority of members and/or clients are from a particular community of color;</li> <li>(b) Organizational environment is culturally focused and the community being served recognizes it as a culturally-specific entity that provides culturally and linguistically responsive services;</li> <li>(c) Majority of staff are from the community being served, and the majority of the leadership (defined to collectively include board members and management positions) are from the community being served;</li> <li>(d) The entity has a track record of successful community engagement and involvement with the community being served; and</li> <li>(e) The community being served recognizes the entity as advancing the best interests of the community and engaging in policy advocacy on behalf of the community being served.</li> </ul>
"Deferral"	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means deferring a project that is either structurally unsound or has safety hazards that cannot be addressed under the scope of the program. The project is deferred until the necessary repairs can be completed.
"Department" or "OHCS"	All Programs	Means the Housing and Community Services Department for the state of Oregon.
"DHS"	HSP	Means the Department of Human Services for the state of Oregon.
"Disallowance of Costs"	All Programs	Means money disbursed to Subgrantee by Department under this Agreement and expended by Subgrantee that: <ul style="list-style-type: none"> <li>a. Is identified by the Federal Government as an improper use of federal funds, a federal notice of disallowance, or otherwise; or</li> <li>b. Is identified by the Department as expended in a manner other than that permitted by this Agreement; or</li> <li>c. Is identified by the Department of expended on the delivery of a Program Element service that did not meet the standards and requirements of this Agreement with respect to that service.</li> </ul>
"DOE"	BPA WAP, DOE WAP, LIHEAP	Means the Federal Department of Energy.
"Elderly Household"	ERA	Means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit, where at least one member of the household is age 58 or older.

“Eligible dependent child”	HSP	Means an unmarried or separated individual who is either under the age of eighteen (18) years OR is under nineteen (19) years and a full-time student OR is a minor parent OR an unborn child.
“Eligible family household”	HSP	Means a low-income household with an eligible dependent child or children, including a single pregnant woman in the month of her due date, living together as one economic unit.
“Emergency shelter”	EHA, ESG, SHAP, ESG-CV	Means any appropriate facility that has the primary use of providing temporary or transitional shelter for the homeless in general or for specific populations of the homeless and the use of which does not require occupants to sign leases or occupancy agreements.
“Energy education”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means the activities and instruction designed to help low-income clients make informed decisions to effectively reduce energy consumption.
“Expenditure Period”	All Programs	Means the time period in which the funds are intended to be used.
“Express Enrollment”	EAS-CRF	Means if an applicant household includes one person enrolled in one of the specified programs and provides documentation of their current enrollment in said program, the household will be eligible for this energy assistance stability program.
“Extremely low income”	EHA, ERA, ESG, HTBA, SHAP	Means an annual household income that is at or less than 30% of area median income based on HUD determined guidelines, adjusted for family size.
“Equipment”	All Programs	Means tangible personal property (including information technology systems) having a useful life of more than one year, and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by subgrantee, or as defined in 2 CFR 200.33.
“Funding agreement” or “Agreement”	All Programs	Means the master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and the subgrantee agency in form and substance satisfactory to the department, as a condition precedent for receipt of program funding from the department.
“Funding application”	All Programs	Means the subgrantee agency’s application to the department for a program grant.
“HHS”	CSBG, HSP, LIHEAP, LIHEAP WX	Means U.S. Department of Health and Human Services.
“HMIS”	CSBG, EHA, ERA, ESG, HSP, HTBA, SHAP, C19-RENTAL RELIEF (CARES ACT), ESG-CV	Means Homeless Management Information System.
“HOME”	HTBA	Means HUD’s HOME Investment Partnerships Program established by the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, 42 U.S.C. § 12701 et seq.



“Home energy supplier”	LIHEAP	Means a supplier who either delivers home energy in bulk to households or provides home energy continuously via wire or pipe.
“Home energy supplier”	OEAP	Means Portland General Electric and Pacific Power utility vendors.
“Home energy supplier”	EAS-CRF	Means any electric or natural gas utility.
“Homeless”	EHA, ERA, ESG, HSP, SHAP, ESG-CV	Means an individual, family or household that lacks a fixed, regular, and/or adequate nighttime residence in accordance with department categorical definitions. Categorical definitions are contained in the program manual.
“Household”	CSBG, EHA, ESG, HTBA, , SHAP, ESG-CV	Means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.
“Household”	LIHEAP, OEAP, EAS-CRF	Means any individual residing alone or groups of individuals who are living together as one economic unit and purchase residential energy in common.
“Housing”	HTBA	Means rental unit, which may be in a rental complex or a free-standing single-family home. It also includes, but is not limited to, rental manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing and single room occupancy housing. Housing does not include emergency shelters (including domestic violence shelters) or facilities, correctional facilities and student dormitories.
“Implementation Report”	All Programs	Means the Subgrantee’s OHCS-approved implementation plan for the use of program funds with respect to applicable program elements. Implementation Reports may be submitted by the Subgrantee and approved by OHCS after the Effective Date of this Agreement at OHCS’s discretion.
“Income”	All Programs	Means the total household income from all sources before taxes, which may be reduced by deductions allowed by the department in compliance with program requirements. Income does not include assets or funds over which the applicant or household has no control.
“Low-income household”	CSBG	Means a household with an annual household income at or less than 200% of the federal poverty guidelines or the maximum as assigned by HHS-ACF-OCS.
“Low-income household”	EHA, ERA, ESG, HTBA, SHAP, ESG-CV	Means a household with an annual household income that is more than 50%, but below 80% of the area median income based on HUD determined guidelines, as adjusted for family size.
“Low-income household”	HSP	Means household with an annual income that is at or below 250% of the federal poverty guidelines and which household assets do not exceed \$2,500.
“Low-income household”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means a household with income that is at or below 200% of the federal poverty level.

“Low-income household”	LIHEAP, OEAP	Means a household with income that is at or below 60% of state median income.
“Low-income household”	C19-RENTAL RELIEF (CARES ACT); EAS-CRF	Means a household with income that is at or below 80% of area median income.
“Maintenance of effort”	HSP	Means DHS allowable nonfederal cash and in-kind contributions used to supplement program services in an amount that equals the subgrantee agency’s program allocation as defined in the program manual and approved by the department.
“Migrant and seasonal farmworker organization”	CSBG	Means a private nonprofit organization organized under ORS chapter 65 that serves migrant and seasonal farmworkers and their families.
“NOA”	All Programs	Means Notice of Allocation which is issued by the Department to subgrantee to award, distribute, or recapture grant funds under this Agreement as they are requested, come available, or are revoked under a program.
“Participant”	All Programs	Means a household who receives program services.
“Peer exchange”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means an exchange of information between peers; usually a visit by one agency to another to review work and exchange ideas and best practices to enhance their programs.
“Program” or “Program Elements” or use of acronym to identify the program	All Programs	Means the program administered by the department pursuant to all applicable federal, state, local laws, rules and regulations.
“Program manual” or “manual”	CSBG, EHA, ERA, ESG, HSP, HTBA, SHAP, LIHEAP, OEAP, C19-RENTAL RELIEF (CARES ACT), EAS-CRF, ESG-CV	Means the program operations manual, as amended from time to time.
“Program requirements” or “legal requirements”	All Programs	Means all terms and conditions of the MGA, incorporated exhibits department directives (including deficiency notices), and including applicable, federal, state laws, rules and regulations, executive orders, applicable administrative rules and OHCS program manuals and local ordinances and codes all as amended from time to time.
“Program services”	CSBG, EHA, ERA, ESG, HSP, HTBA, SHAP, C19-RENTAL RELIEF (CARES ACT), ESG-CV	Means allowable services and activities as defined by the program laws, rules, regulations and eligible under the program.
“Projected (Advance) Expense”	All Programs	Means a payment made by the Department to the subgrantee before the subgrantee disburses the funds for program purposes.
“Poverty guideline”	CSBG, HSP	Means the simplified version of the federal (U.S. Census Bureau) poverty thresholds released annually by HHS to determine financial eligibility for the program.

“Qualified household” or “eligible household”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means any household that meets the qualifications to receive weatherization services.
“Real Property”	All Programs	Means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.
“REM/Design”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means a computerized residential modeling tool used for the purposes of determining the savings to investment ratio of a project or measure.
“Reimbursement”	All Programs	Means the subgrantee’s request for reimbursement of allowable expenses incurred and costs to carry out the delivery of the grant programs and services.
“Savings to investment ratio (SIR)”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means a comparison of the annual savings to the initial investment in a measure. An SIR of 1.0 indicates that a measure will pay for itself in energy savings over the life of the measure.
“Self-sufficiency”	CSBG, EHA, HTBA	Means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition, health care and accessing needed services.
“Subgrantee” or “sub-grantee agency” or “agency”	All Programs	Means is a qualified entity, which has demonstrated its capacity and desire to utilize Community Services program funds to administer Community Services programs in accordance with the terms and conditions of this Agreement, including applicable federal statutes and regulations, applicable State statutes, applicable OHCS and other administrative rules, manuals, and orders, as well as applicable local codes, ordinances (all of the foregoing, including as amended from time to time).
“Subaward”	All Programs	Means an award of financial assistance made under an award by the Subgrantee to an eligible subrecipient or by a subrecipient to a lower tier subrecipient.
“Subrecipient”	All Programs	Means a qualified entity that enters into a written agreement with the subgrantee, satisfactory to OHCS, to provide program services to qualified participants.
“TANF”	HSP	Means Temporary Assistance to Needy Families” grant as delivered by DHS.
“Very-low income”	EHA, ERA, HTBA, ESG-CV	Means an annual household income that is at or less than 50% of the area median income based on HUD determined guidelines adjusted for family size.
“Veteran”	EHA, C19-RENTAL RELIEF (CARES ACT)	Means a person who served in the U.S. Armed Forces and was discharged under honorable conditions or is receiving a non-service-connected pension from the U.S. Department of Veterans Affairs as further defined in ORS 408.225 and the program manual.
“Weatherization services”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means conservation measures meant to reduce heating and cooling loads. These measures may include both air infiltration reduction and thermal

		improvements such as wall, attic, and floor insulation.
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# MASTER GRANT AGREEMENT 2021-2023

## EXHIBIT B

### STANDARD TERMS AND CONDITIONS

#### **I. Disbursement of Grant Funds; Allowable Costs.**

##### **1.1 Disbursement**

**1.1.1 Funding Availability.** Subject to the availability of sufficient monies in and from the Program funding source based on OHCS' reasonable projections of monies accruing to the Program funding source, OHCS will disburse Grant Funds to Subgrantee for the allowable Program work described in the approved Implementation Report that is undertaken during the Performance Period.

**1.1.2 Implementation Report.** OHCS' disbursement of Grant Funds to Subgrantee are contingent upon Subgrantee's prior submission to OHCS and OHCS' review and acceptance of Subgrantee's plan to execute the Program work in accordance with the applicable Program Elements (the "Implementation Report"). At OHCS's sole discretion, OHCS may disburse Grant Funds prior to the submission and approval of an Implementation Report.

**1.1.3 Notices of Allocation (NOAs).** Upon its acceptance of Subgrantee's Implementation Report, OHCS will issue through OPUS one or more Notices of Allocation (NOAs) to Subgrantee to indicate the approval of the Implementation Report. Subgrantee is subject to, and will comply with, all such NOA terms and conditions including this Agreement and the applicable Program Elements. Any NOA issued as described herein is immediately effective, is incorporated into and constitutes a part of this Agreement. Subgrantee accepts a NOA, including modifications thereto, upon undertaking performance of the Program work funded by the NOA. OHCS reserves the right in its sole discretion to modify, correct, adjust, or terminate any NOAs. OHCS' modification or termination of a NOA does not terminate OHCS' remedies with respect to Subgrantee's performance or non-performance of obligations due under this Agreement.

**1.1.4 Federal Funding Terms.** Grant Funds that are derived from federal sources are subject to the terms under which they are received. Subject to the availability of Program funds, OHCS having continued funding, appropriation, limitation, allotment, or other expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement, and conditioned upon the terms and conditions of this Agreement, OHCS will make the Grant Funds to Subgrantee up to the maximum principal amount stated in Section 3 (Consideration) of the Agreement, to perform under this Agreement. OHCS will provide Grant Funds to Subgrantee only upon approved reimbursement requests for allowable costs incurred or if allowed by OHCS to be incurred by Subgrantee consistent with the terms and conditions of this Agreement, including applicable Program Elements.

##### **1.1.5 Backup Documentation; Substantiation.**

**1.1.5.1** Subgrantee must provide to OHCS any information or detail regarding the expenditure of Grant Funds required under the Implementation Report and applicable Program Elements prior to disbursement or as OHCS may request.

**1.1.5.2** Subgrantee's request for Grant Funds must be supported by documentation satisfactory to OHCS, including but not limited to: properly executed payroll and time records, invoices, contracts, vouchers, orders, canceled checks and/or any other accounting documents pertaining in whole or in part to the Agreement (or in the case of subrecipients, under their respective contracts with Subgrantee) in accordance with generally accepted accounting principles and applicable state and federal requirements, including as specified herein. OHCS may require such other information or clarification as it deems necessary or appropriate in its sole discretion.

**1.1.5.3** Approval by OHCS. OHCS will only disburse Grant Funds to Subgrantee for activities completed or materials produced, that, if required by the Implementation Report or applicable Program Elements, are approved by OHCS. If OHCS determines any completed Program work is not acceptable and any deficiencies are the responsibility of Subgrantee, OHCS will prepare a detailed written description of the deficiencies within fifteen (15) days of receipt of the materials or performance of the activity and will deliver such notice to Subgrantee. Subgrantee must correct any deficiencies at no additional cost to OHCS within fifteen (15) days. Subgrantee may resubmit a request for disbursement that includes evidence satisfactory to OHCS demonstrating deficiencies were corrected.



**1.2 Conditions Precedent to Disbursement.** OHCS' obligation to disburse Grant Funds to Subgrantee under this Agreement is subject to satisfaction of each of the following conditions precedent:

**1.2.1** OHCS has received sufficient funding, appropriations, expenditure limitation, allotments, or other necessary expenditure authorizations to allow OHCS, in the exercise of its reasonable administrative discretion, to make the disbursement from the Program funding source;

**1.2.2** No default as described in Section 12 of this Exhibit B has occurred; and

**1.2.3** Subgrantee's representations and warranties set forth in Section 7 of this Exhibit B are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.

**1.3 Advances and Reimbursement of Grant Funds.**

**1.3.1 Generally.** Subgrantee must request Grant Funds in such form and manner as is satisfactory to or required by OHCS. Further, in accordance with U.S. Treasury Regulations, 31 CFR Part 205, implementing the Cash Management Improvement Act, Subgrantee must limit any request for Grant Funds to the minimum amount needed to accomplish its described purposes and to time the request in accordance with the actual, immediate cash requirements of the Subgrantee in performing the Program work. Submission of proper account records showing revenue and expenditures for the reporting period must be submitted as documentation to support the amounts being requested. The foregoing requirements apply to all Grant Funds requested under this Agreement.

**1.3.2 Advance of Funds (Projected).** Subgrantee may request to be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to the Subgrantee must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the Subgrantee in carrying out the purposes of the grant as described in this Agreement. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the Subgrantee for allowable grant direct costs and the proportionate share of any allowable indirect costs. Subgrantee must make timely payment to contractors in accordance with the contract provisions. Advance grant fund payments are at OHCS' sole discretion and will be made only as close as is administratively feasible to the actual use by the Subgrantee for applicable direct or indirect Program work costs and only up to the proportionate share of such allowable costs as is permitted under the Agreement, including applicable Program Elements.

**1.3.3 Reimbursement of Funds.** When the Subgrantee requests payment by reimbursement, reimbursement is the preferred method when the requirements in Section 1.4.2 of this Exhibit B above cannot be met. OHCS will make payment within thirty (30) calendar days upon receipt of the reimbursement request and all adequate backup documentation (to OHCS' satisfaction in its sole discretion), unless OHCS reasonably believes the request to be improper.

**1.4 Disallowance of Costs.**

**1.4.1** OHCS is not responsible nor will it pay for any costs disallowed either upon a request for funds or as a result of any audit, review, site visit, or other disallowance action by OHCS, except for costs incurred by Subgrantee solely due to the willful misconduct or gross negligence of OHCS, its employees, officers, or agents. If a cost is disallowed by OHCS after reimbursement has occurred, Subgrantee shall repay all disallowed costs to OHCS upon written notice within the time frame specified by OHCS, which in no event shall exceed thirty (30) days.

**1.4.2** If Subgrantee is a county, such disallowed costs may be recovered by OHCS only through repayment, withholding, or by other means authorized by this Agreement or as allowed at law not inconsistent with the Oregon Constitution, and particularly Article XI, Section 10 and consistent with the applicable Program Elements and specifically requirements set forth by the federal government.

**1.4.3** If Subgrantee is other than a county, OHCS may recover such disallowed costs through repayment, withholding, offset, or other means permitted under this Agreement, by law or otherwise but consistent with the applicable Program Elements and specifically requirements set forth by the federal government.

**1.4.4** Subgrantee will, and will cause its subrecipients to, cooperate with OHCS and all appropriate investigative agencies will assist in recovering invalid payments.

**1.5 Unallowable Costs and Lobbying Activities.** Subgrantee will review and comply with the applicable Program Elements and adhere to provisions on allowable costs and expenditures. Subgrantee will, among other obligations, comply with the provisions prohibiting the expenditure of funds for lobbying and related activities, whether in 2 CFR

Part 230, 2 CFR Part 225, or otherwise, as such provisions may be modified from time to time. If Subgrantee makes expenditures or incurs costs for purposes or amounts inconsistent with the allowable costs of the Grant Funds as described in the Implementation Report, applicable Program Elements, or elsewhere in this Agreement, such funds are subject to recapture and OHCS may exercise any and all remedies under this Agreement to otherwise available at law.

**1.6 No Duplicate Payments.** Subgrantee may use other funds in addition to the Grant Funds to complete the Program work; provided, however, the Subgrantee may not credit or pay any Grant Funds for Program work costs that are paid for with other funds and would result in duplicate funding. Subgrantee is provided thirty (30) days to return the duplicative payments. After thirty (30) days, if a duplicate payment has not been returned or applied to a cost not already covered by Program funding, reimbursement of the duplicate payment must be made to OHCS and shall include the entire amount of duplicate payment funds received regardless of OHCS reimbursement amounts.

**1.7 Suspension of Funding and Project.** OHCS may by written notice to Subgrantee, temporarily cease funding and require Subgrantee to stop all, or any part, of the Program work for a period of up to 180 days after the date of the notice, if OHCS has or reasonably projects that it will have insufficient funds from the Program funding source to disburse the full amount of the Grant Funds. Upon receipt of the notice, Subgrantee must immediately cease all Program work, or if that is impossible, must take all necessary steps to minimize the Program work.

If OHCS subsequently projects that it will have sufficient funds, OHCS will notify Subgrantee that it may resume activities. If sufficient funds do not become available, Subgrantee and OHCS will work together to amend this Agreement and any applicable NOAs to revise the amount of Grant Funds and Program work to reflect the available funds. If sufficient funding does not become available or an amendment is not agreed to within a period of 180 days after issuance of the notice, OHCS will either (i) cancel or modify its cessation order by a supplemental written notice, or (ii) terminate this Agreement as permitted by either the termination at OHCS' discretion or for cause provisions of this Agreement.

## **2. Nonexclusive Remedies Related to Funding.**

**2.1 Spending Down and Reallocation Policy.** All Grant Funds with the exception of administrative allocations, will be spent proportionally to the expenditure period at the rate prescribed below (as tracked through the OPUS "Award Summary" report).

### **2.1.1 Minimum Spending Targets:**

- At 25% through expenditure period, at least 10% of the funding must be spent
- At 50% through expenditure period, at least 25% of the funding must be spent
- At 75% through expenditure period, at least 65% of the funding must be spent
- At 90% through expenditure period, at least 90% of the funding must be spent

Any spending below these targets will be evaluated against the Subgrantee's time-bound expenditure plan (which outlines the Subgrantee's flexible spend rate) as approved by and on file with OHCS. Any spending below these stated rates is subject to rescission of Grant Funds. Any amount of funding greater than 10% of a funding source's total allocation or a combined total of \$100,000 that is subject to rescission will trigger Community Action Agency (CAA) Board Notification.

**2.2 OHCS and Subgrantee Collaboration to Cure.** When spending is below the thresholds described above, and prior to funding rescission, OHCS and Subgrantee agree to collaborate to find solutions that resolve the issues, provided it is within OHCS' control (in its sole discretion) to adjust to meet Subgrantee's needs and does not conflict with federal law. OHCS will allow proposals from subgrantee to cure spending issues and prevent funding rescission. Subgrantee will have 30 days to modify Implementation Reports and update the flexible spend rate in the time-bound expenditure plans to demonstrate how compliance with spending targets will be achieved.

### **2.3 Subgrantee Board and Housing Stability Council Notification Protocols.**

**2.3.1 Board Notification.** OHCS will notify Subgrantee's Board Chair and Subgrantee's Executive Director about the potential funding rescission. This notice will occur after modified Implementation Reports have been approved and only if the updated spending targets remain unmet. A final time-bound expenditure plan must be submitted to OHCS with a final Implementation Report by the Subgrantee's Executive Director within thirty (30) days of OHCS's notice to Subgrantee's board.

**2.3.2 Housing Stability Council Notification.** If all efforts to retain funding in Subgrantee's intended community fail, a report to the Housing Stability Council will be generated which outlines the facts and circumstances associated with the funding rescission.

**2.4 Withholding, Retention, and Redistribution of Grant Funds.**

**2.4.1 Withholding.** OHCS may withhold any and all undisbursed Grant Funds from Subgrantee if OHCS determines, in its sole discretion, that Subgrantee has failed to timely satisfy any material obligation arising under this Agreement, including but not limited to compliance with the applicable Program Elements, providing complete, accurate and timely reports in a form satisfactory to OHCS, or if OHCS determines that the rate or scale of request for Grant Funds in any expenditure category materially deviates from an applicable NOA or is unsubstantiated by related documentation.

**2.4.2 Retention or Redistribution of Grant Funds.**

**2.4.2.1 Due to Non-Timely Use.** If Grant Funds are not obligated for reimbursement by Subgrantee in a timely manner as determined by OHCS at its sole discretion, OHCS may in its sole discretion, reduce Subgrantee's Grant Funds and redistribute Grant Funds to other subgrantees or retain such funds for other OHCS use, within applicable state and federal law. OHCS may implement adjustments pursuant to this subsection by modifying the applicable NOA(s). This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

**2.4.2.2 Due to Substantial Difference.** If the rate of request for any expenditure or cost category is substantially different (as determined by OHCS in its sole discretion) that in OHCS-approved budget submissions, including applicable NOAs, OHCS has sole discretion to reduce and redistribute or retain any and all funds otherwise available to Subgrantee under this Agreement. OHCS may implement adjustments pursuant to this subsection by modifying the applicable NOA. This remedy is in addition to any other remedies available to OHCS under this Agreement.

**2.4.3 Repayment of Excess Disbursed Funds.**

**2.4.3.1 Due to Modified NOA.** If Grant Funds previously disbursed by OHCS to Subgrantee exceed a relevant modified NOA amount and remain unexpended by Subgrantee, Subgrantee shall not expend any such excess Grant Funds. Subgrantee, instead shall return any remaining unexpended Grant Funds in excess of the modified NOA to OHCS within thirty (30) calendar days of the modified NOA unless another use of such funds is authorized in writing by OHCS. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

**2.4.3.2 Due to Overpayment.** If OHCS makes overpayment of Grant Funds to Subgrantee in response to one or more funds requests, whether or not the underlying request(s) were inaccurate, Subgrantee shall repay such overpayment within thirty (30) calendar days of its discovery by Subgrantee or upon notice by OHCS, unless OHCS in writing designates an earlier time for repayment or authorizes another use by Subgrantee of such overpayment. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

**2.4.3.3 Return of Unexpended Funds.** Within thirty (30) days following the end of the Performance Period or Termination of this Agreement, Subgrantee must return to OHCS all unexpended Grant Funds, unless required earlier in accordance with the applicable Program Elements.

**3. Rollover Funds From a Prior Grant Agreement.**

**3.1** Subject to funding restrictions, Subgrantee may request in writing that financial assistance allocated, but not expended under a prior Master Grant Agreement, be allocated under this Agreement as an award of "rollover" grant funds.

**3.2** Subject to funding restrictions, OHCS may, at its sole and absolute discretion, approve any award of rollover grant funds. Any rollover grant funds shall be subject to all terms and conditions of this Agreement and shall be subject to such terms and conditions of the prior Master Grant Agreement as OHCS may specify in its rollover approval.

Any request for an award of rollover grant funds by Subgrantee must be made in form and content satisfactory to OHCS.

**4. Online Systems.**

**4.1** Subgrantee and its subrecipients must enter all appropriate and necessary data into OPUS (a web-based application developed by OHCS), ServicePoint, Allita HSM, or other OHCS-approved system (the "Sites") at the



time of client intake for all Federal, State, and private grant programs awarded by OHCS through this Agreement. OHCS will enter allocations to Subgrantee on a program by program expenditure category basis unless it determines otherwise. Exceptions are only allowed with prior written approval by OHCS.

**4.2 Sites' Terms and Conditions.** As a condition of the use of the Sites, Subgrantee and its subrecipients ("User") agrees to all OHCS terms and conditions contained in this Agreement, notices on the Sites, or as otherwise directed by OHCS. User agrees not to use the Sites for any unlawful purpose. OHCS reserves the right, at its discretion, to update or revise the Sites' terms of use. Continued use of the Sites constitutes acceptance of the Sites' terms and conditions.

**4.3 Local Data Collection.** Use of the Sites for additional reported "local" program data is at the entity's own risk. OHCS will not modify or otherwise create any screen, report or tool in the Sites to meet needs related to this local data.

**4.4 Data Rights.** Subgrantee hereby grants and will require and cause any subrecipient to grant OHCS the right to reproduce, use, display, adapt, modify, distribute, and promote the content in any form and disclose, as allowed by law, any or all of the information or data furnished to or received by OHCS directly or indirectly resulting from this Agreement. Subgrantee also shall use and shall require and cause its subrecipients to use Client Release forms and Privacy Policy forms (samples provided by OHCS) in connection with obtaining and transmitting client data.

**4.5 Disclaimer of Warranties.** Subgrantee understands and agrees, and shall require its subrecipients to agree, that all materials, information, software, products, and services included in or available through the Sites (the "Content") are provided "as is" and "as available" for use. The Content is provided without warranties of any kind, either express or implied, including but not limited to, implied warranties of merchantability, fitness for a particular purpose, or non-infringement. OHCS does not warrant that: (1) the content is accurate, reliable, or correct; (2) the Sites will be available at any particular time or location (3) any defects or errors will be corrected; or (4) the content is free of viruses or other harmful components. Use of the Sites is solely at the User's risk. User hereby accepts the risk of its use of the Sites, and of the use of the Sites by its subrecipients, and expressly waives any claims and causes of action against the State and OHCS.

**4.6 Limitation of Liability.** Subgrantee agrees that under no circumstances will OHCS be liable for any direct, indirect, punitive, incidental, special, or consequential damages that result from the use of, or inability to use the Sites. This limitation applies whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if OHCS has been informed of the possibility of such damage.

**4.7 Indemnification.** Subject to applicable law, Subgrantee agrees, and shall require its subrecipients to agree, to defend, indemnify (consistent with ORS Chapter 180), and hold harmless OHCS and its employees, contractors, officers, and directors from all liabilities, claims, and expenses, including but not limited to attorney fees, that arise from use or misuse of the Sites. OHCS reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Subgrantee, in which event Subgrantee will cooperate with OHCS in asserting any available defenses.

**5. Fixed Assets.** If applicable, Subgrantee shall, and shall cause its subrecipients to, maintain policies and procedures for the management of property and equipment that comply with all requirements of the applicable Code of Federal Regulations, 2 CFR Subtitle B with guidance at 2 CFR Part 200, and specific requirements of the source of funds. These regulations shall apply to all equipment purchased with OHCS funding, regardless of source of funds. The following practices are in addition to those otherwise required:

**5.1 High Risk Items.** Fixed assets with a value greater than \$5,000 will include computer equipment, electronic equipment, photography equipment, hand tools and other items.

**5.2 Equipment.** The title to all equipment as defined in 2 CFR Part 200, purchased in whole or in part with funds provided under this Agreement, shall rest with the Subgrantee. Property and equipment purchased with OHCS grant funds shall not be used for collateral or to secure financing.

**5.3 Insurance.** Subgrantee shall, at a minimum, provide the insurance coverage required by Oregon Revised Statute for automobiles and or equipment registration through Oregon Department of Transportation, Department of Motor

Vehicles, that has been acquired in whole or in part with funds provided under this Agreement owned by Subgrantee with OHCS named as an additional insured party in all such motor vehicles and or equipment. In its agreements with its subrecipients, Subgrantee shall require and cause its subrecipients to comply with the requirements of this Section.

**5.4 Loaned Equipment / Property Disposition.** All fixed assets owned by OHCS and loaned to Subgrantee under a standard agreement will remain the property of OHCS, regardless of their value. The disposition of all loaned equipment shall be readily available.

**5.5 Disposal Requiring Prior Approval.** When Subgrantee, or its subrecipients, wishes to dispose of equipment having an original cost of more than \$5,000, Subgrantee shall submit a written notification to the appropriate OHCS Program coordinator with a copy to the OHCS Financial Compliance Monitor. If OHCS consents, OHCS will provide instructions regarding the method of disposition. OHCS reserves the right to refuse to consent to such disposal and the right to object to the timing of each disposition. Such disposition, if permitted, shall be done in a manner consistent with the property management standards of equipment of OHCS from which the original funding was received. In the case of mixed funding sources, the most restrictive standards shall apply.

**5.5.1** Items of equipment with a current per-unit, fair-market value of \$5,000 or less may be retained, sold, or otherwise disposed of upon written notification to the appropriate OHCS Program coordinator with a copy to OHCS Financial Compliance Monitor with no further obligation. The OHCS Program coordinator shall be notified of all title transfers, sales, and other methods of disposition. OHCS may review disposition records upon notification of Subgrantee.

## **6. Compliance and Monitoring.**

### **6.1 Compliance.**

**6.1.1** Subgrantee will comply and will require and cause (including by contract) all subrecipients, vendors, contractors, and assigns to comply with this Agreement, including applicable Program Requirements.

**6.1.2** Without limiting the generality of the foregoing, Subgrantee will comply and will require and cause its subrecipients, vendors, contractors, agents, and assigns to comply with all federal requirements, including but not limited to the Federal Funding Accounting and Transparency Act (FFATA) of 2006 (P.L. 109-282), provisions of which include, but are not limited to, a requirement for Subgrantees, subrecipients, and vendors to have a Data Universal Numbering System (DUNS) number and to maintain a current registration in the SAMs (System for Awards Management) database.

**6.1.3** Without limiting the generality of the foregoing, Subgrantee expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. Subgrantee shall, to the maximum extent economically feasible in performance of this Agreement, use recycled paper (as defined in ORS 279A.010(gg)), recycled PETE products (as defined in ORS 279A.010(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(ii)).

### **6.2 OHCS to Monitor Subgrantee.**

**6.2.1** OHCS, including its authorized representatives and authorized third parties, may monitor the activities and records of each Subgrantee and Subgrantee's subrecipients and vendors as it deems necessary or appropriate for, among other things, to ensure: (1) Subgrantee and its subrecipients comply with the terms of this Agreement, including but not limited to the Program Requirements, and that Grant Funds are used properly for authorized purposes hereunder; and (2) that performance goals are achieved as specified in this Agreement, including without limitation in the Community Plan, NOAs, and the Program Requirements, and that performance is to the satisfaction of OHCS.

**6.2.2** OHCS' monitoring activities may include any action deemed necessary or appropriate by OHCS including, but not limited to the following: (1) the review (including copying) from time to time of any and all Subgrantee,

subrecipient, and Vendor files, records, and other information of every type arising from or related to performance under this Agreement; (2) arranging for, performing, and evaluating general and limited scope audits; (3) conducting or arranging for on-site and field visits and inspections; (4) review of Subgrantee fiscal and program reports, and requiring appropriate Request for Funds documentation as well as such other information and clarification as it deems appropriate, prior to providing a Request for Funding approval, whether in whole, in part, or otherwise; and (5) evaluating, training, providing technical assistance and enforcing compliance of Subgrantee, subrecipients, vendors, and their officers, employees, agents, contractors and other staff.

6.2.3 OHCS monitoring and enforcement activities may be conducted in-person, by telephone, and by other means deemed appropriate by OHCS. Monitoring will be done through contractors, agents, or other authorized representatives.

6.2.4 OHCS may, in its sole and absolute discretion, request assistance in monitoring from outside parties, including but not limited to the Oregon Secretary of State, the Oregon Attorney General, the federal government, and law enforcement agencies.

6.2.5 OHCS may require Subgrantee to perform some level of random audit of Program applications.

6.2.6 OHCS may release Subgrantee monitoring reports, agency audits, and any other compliance information to the Community Action Partnership of Oregon.

**6.3 Subgrantee to Fully Cooperate.** Subgrantee agrees to fully and timely cooperate with OHCS in performance of any and all monitoring and enforcement activities, including causing its subrecipients, vendors, and contractors to also cooperate by agreement. Failure by Subgrantee or any of its subrecipients or vendors to comply with this requirement is sufficient cause for OHCS to require special conditions, take such other action (including the exercise of available remedies) as it deems appropriate, and may be deemed by OHCS as a material failure by the Subgrantee to perform its obligations under this Agreement.

#### **6.4 Subgrantee to Monitor Its Subrecipients.**

6.4.1 At least once during the term of this Agreement and as otherwise directed by OHCS, Subgrantee will monitor the activities and expenditures of its subrecipients as is reasonable to ensure: (1) compliance with this Agreement, including the Program Requirements; and (2) achievement of this Agreement's performance goals, in OHCS' sole discretion.

6.4.2 Subgrantee's monitoring of its subrecipients must include: (1) and evaluation of each subrecipient's risk of non-compliance with federal statutes, regulations, and terms and conditions of any applicable subaward for purposes of determining the appropriate level and type of subrecipient monitoring; (2) a review of financial and performance reports; and (3) follow-up on all deficiencies pertaining to any involved federal funding in accordance with 2 CFR 200.331 and other applicable federal regulations, as updated from time to time.

#### **6.5 OHCS Findings and Reports.**

6.5.1 **Monitoring Visits; Reports.** During the term of this Agreement, OHCS may conduct monitoring visits, including review of Subgrantee and subrecipient files, records, and other information related to performance under this Agreement. OHCS generally will advise the Subgrantee as to its observations and findings generated by any monitoring visit, usually through an exit interview. Within sixty (60) days after an inspection, OHCS may provide Subgrantee with a written report of its findings from the inspection and may proscribe corrective action, which Subgrantee must timely satisfy.

6.5.2 **Ongoing Monitoring.** OHCS may continue to track and follow-up its monitoring findings and corrective actions with Subgrantee or its subrecipients through a tracking record. The tracking record may include, without limitation: findings, corrective actions, deliverables, due dates, responsible parties, actions taken, and final resolution. Subgrantees must resolve finding and other required corrective action actions within reasonable timeframe provided by OHCS.

### **7. Representations and Warranties.**

**7.1 Organization / Authority.** Subgrantee represents and warrants that:

7.1.1 Subgrantee is duly organized and validly existing in the State of Oregon;

7.1.2 Subgrantee has all necessary rights, powers and authority under organizational documents and under Oregon Law to (i) execute this Agreement, (ii) incur and perform its obligations under this Agreement; and (iii) receive financing, including the Grant Funds, for the Program work;

7.1.3 This Agreement has been duly executed by Subgrantee and when executed by OHCS, constitutes a legal, valid, and binding obligation of Subgrantee enforceable in accordance with its terms;



**7.1.4** If applicable and necessary, the execution and delivery of this Agreement by Subgrantee has been authorized by an ordinance, order, or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and  
**7.1.5** There is no proceeding pending or threatened against Subgrantee before any court or governmental authority that if adversely determined would materially adversely affect the Program work or the ability of Subgrantee to carry out the Program work.

**7.2 False Claims Act.** Subgrantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) made by (or caused by) Subgrantee that pertains to this Agreement or to the Program work. Subgrantee certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Subgrantee further acknowledges in addition to the remedies available to OHCS under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Subgrantee.

**7.3 No Limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Subgrantee.

## **8. Confidentiality.**

**8.1** Subgrantee must protect and must require and cause its subrecipients and vendors to protect the confidentiality of all information concerning clients and other applicants for and recipients of services funded by this Agreement. Neither Subgrantee nor its subrecipients or vendors may release or disclose any such information except as necessary for the administration of the program funded under this Agreement, as authorized in writing by the client, applicant or recipient of such services, or as required by law. Subgrantee, its subrecipients and its vendors must appropriately secure all records and files to prevent access by unauthorized persons.

**8.2** Subgrantee must ensure and must require and cause its subrecipients and vendors to ensure that all its officers, employees, and agents are aware of and comply with this confidentiality requirement.

**9. Insurance Requirements.** Subgrantee will provide all necessary General Liability and Automotive insurance required by Oregon Law and satisfactory to OHCS to perform services under this Grant Agreement, and provide proof of coverage upon request by OHCS. In no event shall General Liability insurance coverage be less than \$500,000.00. In no event shall Automotive insurance coverage be less than \$500,000.00.

All employers, including Subgrantee, that employ subject workers as defined in ORS 656.027, will comply with ORS 656.017 and will provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Subgrantee will obtain employers' liability insurance coverage limits of not less than \$500,000.00. Subgrantee will require and ensure that each of its subcontractors complies with these requirements.

## **10. Subgrantee Status and Certifications.**

**10.1** Subgrantee shall perform all work under this Agreement as an independent contractor. Subgrantee is not an officer, employee or agent of OHCS or the State, as those entities are respectively defined in ORS chapter 456 and in ORS 30.265, with respect to work performed under this Agreement.

**10.2** Subgrantee agrees that insurance coverage, whether purchased or by self-insurance, for Subgrantee's agents, employees, officers and/or subcontractors is the sole responsibility of Subgrantee.

**10.3** Subgrantee certifies that it is not employed by or contracting with the federal government for the work covered by this Agreement.

**10.4** Subgrantee certifies that it has established or before starting the Program work will establish a formal statement of nondiscrimination in its employment policy and that it enforces such policy.

**10.5** Subgrantee certifies to the best of its knowledge and belief that neither the Subgrantee nor any of its principals, officers, directors, or employees:

**10.5.1** Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from

covered transactions by any federal department or OHCS;

**10.5.2** Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

**10.5.3** Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in subsection 10.5.2 of this Exhibit B above;

**10.5.4** Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default; and

**10.5.5** Is included on the list titled “**Specially Designated Nationals and Blocked Persons**” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

**11. Governing Law; Jurisdiction.** This Agreement is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit, or proceeding (collectively “Claim”) between OHCS or any other agency or department of the State of Oregon, or both, and Subgrantee that arises from or related to this Agreement must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. **SUBGRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.**

## **12. Default.**

**12.1 Subgrantee.** Subgrantee will be in default under this Agreement upon the occurrence of any of the following events:

**12.1.1** Subgrantee fails to use the Grant Funds for the intended purpose described in applicable Program Elements or otherwise fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement;

**12.1.2** Subgrantee fails to comply timely with any material obligation under this Agreement, including but not limited to any OHCS directive or term of a corrective action plan;

**12.1.3** Any representation, warranty, or statement made by Subgrantee in this Agreement or in any documents or reports relied upon by OHCS to measure the Program work, the expenditure of Grant Funds, or the performance by Subgrantee is untrue in any material respect when made; or

**12.1.4** A petition, proceeding or case is filed by or against Subgrantee under any federal or state bankruptcy, insolvency, receivership, or other law relating to reorganization, liquidation, dissolution, winding-up, or adjustment of debts; in the case of a petition filed against Subgrantee, Subgrantee acquiesces to such petition or such petition is not dismissed within twenty (20) calendar days after such filing, or such dismissal is not final or is subject to appeal; or Subgrantee becomes insolvent or admits its inability to pay its debts as they become due, or Subgrantee makes an assignment for the benefit of its creditors.

**12.2 OHCS.** OHCS will be in default under this Agreement if, after fifteen (15) days written notice specifying the nature of the default, OHCS fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement; provided, however OHCS will not be in default if OHCS fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the funding source.

## **13. Remedies.**

### **13.1 OHCS Remedies.**

**13.1.1** In the event Subgrantee is in default under Section 12.1 of this Exhibit B, OHCS 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: (i) termination of this Agreement under Section 14.2 of this Exhibit B; (ii) modifying any NOA under this Agreement; (iii) reducing or withholding payment for the Program work that is deficient or that Subgrantee has failed to complete by any scheduled deadlines, including disallowing costs; (iv) suspending or recouping

payments, or both; (v) requiring Subgrantee to complete, at Subgrantee's expense, corrective action or additional activities necessary to satisfy its obligations or meet performance standards under this Agreement, in OHCS' sole discretion; (vi) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; (vii) exercise of its right of recovery of overpayments under this Agreement; (viii) declaring Subgrantee ineligible for the receipt of future awards from OHCS; (ix) criminal action for misstatements or fraud, misfeasance, or other culpable behavior, and (x) investigation, audit, and/or sanction by other governmental bodies.

**13.1.2** Subgrantee acknowledges and agrees that any such remedies are subject to Article XI, Section 7 of the Oregon Constitution, the Oregon Tort Claims Act, and the terms and conditions of any other applicable provision of this Agreement.

**13.1.3 No Waiver.** No failure or delay by OHCS to enforce any provision of this Agreement will constitute a waiver by OHCS of that or any other provision, nor will any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.

**13.1.4 Survival.** Remedies provided under this Agreement or otherwise will survive termination of this Agreement.

**13.2 Subgrantee Remedies.** In the event OHCS is in default under Section 12.2 of this Exhibit B and whether or not Subgrantee elects to terminate this Agreement, Subgrantee's sole monetary remedy will be, within any limits set forth in this Agreement, reimbursement of Program work completed and accepted by OHCS and authorized expenses incurred, less any claims OHCS has against Subgrantee. In no event will OHCS be liable to Subgrantee for any expenses related to termination of this Agreement or for anticipated profits.

#### **14. Termination.**

**14.1 Mutual.** This Agreement may be terminated at any time by mutual written consent of the Parties.

**14.2 By OHCS.** OHCS may terminate this Agreement as follows:

**14.2.1** At OHCS' discretion, upon thirty (30) days advance written notice to Subgrantee;

**14.2.2** Immediately upon written notice to Subgrantee, if OHCS fails to receive funding, or appropriations, limitations, or other expenditure authority at levels sufficient in OHCS' reasonable and administrative discretion, to perform its obligations under this Agreement;

**14.2.3** Immediately upon written notice to Subgrantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that OHCS' performance under this Agreement is prohibited or OHCS is prohibited from funding the Agreement from the funding source; or

**14.2.4** Immediately upon written notice to Subgrantee, if Subgrantee is in default under this Agreement and such default remains uncured fifteen (15) days after written notice thereof to Subgrantee.

**14.3 By Subgrantee.** Subgrantee may terminate this Agreement as follows:

**14.3.1** If Subgrantee is a governmental entity, immediately upon written notice to OHCS, if Subgrantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Agreement.

**14.3.2** If Subgrantee is a governmental entity, immediately upon written notice to OHCS, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Program work is prohibited by law or Agreement is prohibited from paying for the Program work from the Grant Funds or other planned funding; or

**14.3.3** Immediately upon written notice to OHCS, if OHCS is in default under this Agreement and such default remains uncured fifteen (15) days after written notice thereof to OHCS.

**14.4 Cease Activities.** Upon receiving a notice of termination of this Agreement, Subgrantee must immediately cease all activities under this Agreement, unless OHCS expressly directs otherwise in such notice. Upon termination, Subgrantee must deliver to OHCS all materials or other property that are or would be required to be provided to OHCS under this Agreement or that are needed to complete the Program work that would have been performed by Subgrantee.

#### **15. Miscellaneous.**

##### **15.1 Conflict of Interest.**

**15.1.1 Generally.** By signature to this Agreement, Subgrantee declares and certifies the award of this Agreement



and the Program work, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer, or employee of Subgrantee.

**15.1.2 Conflict of Interest Policy and Reporting.** A conflict of interest exists if, among other things, a decision or recommendation could affect the finances of the public official or the finances of a relative. If a conflict of interest exists, the public official must always give notice of the conflict, and in some situations the public official is restricted in their ability to participate in the matter that presents the conflict of interest. Subgrantee will timely report to OHCS any perceived or actual conflict of interest. Subgrantee certifies it has established a conflict of interest policy that outlines the process for disclosing in writing any potential conflict of interest and such policy must be provided to OHCS upon OHCS' request, or as otherwise requested during a Subgrantee audit.

**15.2 Nonappropriation.** OHCS' obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon OHCS receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OHCS, 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 OHCS.

### **15.3 Amendments.**

**15.3.1** OHCS reserves the right to add or amend Implementation Reports and NOAs. Otherwise, the Parties may not waive, supplement, or amend the terms of this Agreement, in any manner whatsoever, except by written amendment signed by the Parties and for which all necessary OHCS approvals have been obtained.

**15.3.2** Subgrantee's proposed changes to or additions of a Implementation Report must be submitted to OHCS in writing and require the prior written approval of OHCS before Subgrantee may commence a change.

**15.3.3** All federal terms and conditions included in this Agreement at time of original Agreement execution may be amended from time to time by the federal grantor or regulator of funds.

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

**15.5 Required Notifications to OHCS.** In addition to the requirements provided elsewhere in this Agreement, Subgrantee will immediately report changes in Key Personnel including Fiscal, Program, and Executive Level Leadership.

**15.6 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 2, 4.6, 4.7, 11, 13, 15.6, 15.7 and 15.10 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

**15.7 Headings.** The headings in this Agreement are for convenience only and in no way define, limit, or describe the scope intent of any provisions of this Agreement.

**15.8 Severability.** The Parties agree 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.

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

**15.10 Indemnity.** Subject to applicable law, Subgrantee will and will require by contract that its subrecipients will,

defend, save, hold harmless, and indemnify (consistent with ORS Chapter 180) the State of Oregon and OHCS and their officers, employees and agents from and against all claims, suites, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or, relating to the activities of Subgrantee or its officers, employees, subrecipients, subcontractors, or agents under this Agreement.

**15.11 Attorney Fees.** In the event a lawsuit of any kind is instituted on behalf of OHCS or the Subgrantee with respect to this Agreement, or any right or claim related thereto, including but not limited to the collection of any payment due under this Agreement or to obtain performance of any kind under this Agreement, the prevailing party is, to the extent permitted by law, entitled to its reasonable attorney fees incurred before and during trial, on appeal, in arbitration, in bankruptcy, and in such other forum or proceeding appropriate thereto, together with such additional terms as the court or hearings officer may adjudge for reasonable costs and disbursements incurred therein. Reasonable fees will not exceed the rate charged to OHCS by its attorneys.

**15.12 Compliance with Law.** In connection with their activities under this Agreement, the Parties must comply with all applicable federal, state, and local laws. While OHCS will make reasonable efforts to update its Program guidance and notify the Subgrantee thereof, the Subgrantee is ultimately responsible for maintaining awareness of and compliance with updates to federal law governing the Program.

**15.13 No Third-Party Beneficiaries.** OHCS and Subgrantee 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.

**15.14 Assignment and Successors.** Subgrantee may not assign or transfer its interest in this Agreement without the prior written consent of OHCS and any attempt by Subgrantee to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. OHCS' consent to Subgrantee's assignment or transfer of its interest in this Agreement will not relieve Subgrantee 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.

**15.15 Contracts and Subgrants.** Subgrantee may not, without OHCS' prior written consent, enter into any contracts or subgrants for any of the Program work. OHCS' consent to any contract or subgrant will not relieve Subgrantee of any of its duties or obligations under this Agreement.

**15.16 Time of the Essence.** Time is of the essence in the performance of this Agreement.

**15.17 No Limitations on Actions of OHCS in Exercise of Its Governmental Powers.** Nothing in this Agreement is intended, nor will it be construed, to in any way limit the actions of OHCS in the exercise of its governmental powers. It is the express intention of the Parties that OHCS will retain the full right and ability to exercise its governmental powers with respect to the Subgrantee, the Grant Funds, and the transaction contemplated by this Agreement to the same extent as if it were a party to this Agreement, and in no event will OHCS have any liability in contract arising under this Agreement by virtue of any exercise of its governmental powers.

**15.18 Records Maintenance and Access.** Subgrantee must, and must require and cause its subrecipients to, maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Subgrantee must, and must require and cause its subrecipients to, maintain any other records, whether in paper, electronic or other form, pertinent to this Agreement in such a manner as to clearly document Subgrantee's and subrecipients' performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records". Subgrantee acknowledges and agrees OHCS 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. Subgrantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. In its agreements with subrecipients, Subgrantee shall require and cause its subrecipients to comply with the requirements of this Section and to grant right of access to and ownership by OHCS of the subrecipients' books and records related to this Agreement.



**15.19 Audits.**

**15.19.1 OHCS Required Audits.** As required by OHCS, Subgrantee will and will cause its subrecipients to, submit to OHCS financial and compliance audits satisfactory to OHCS for such periods and programs covered by this Agreement.

**15.19.2 Federal Audits.** If Subgrantee expends \$750,000 or more in federal funds (from all sources) in a fiscal year, Subgrantee will have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200 and applicable federal regulations.

**15.20 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.

**15.21 Agreement Documents.** This Agreement consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:

- This Agreement less all Exhibits
- Exhibit D Federal Assurances
- Exhibit B Terms and Conditions
- Exhibit C Special Provisions
- Exhibit F Program Elements
- Exhibit A Definitions
- Exhibit E Historic Preservation

**15.22 Merger.** This Agreement, all Exhibits, and all incorporated documents, 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.

**15.23 Waiver.** No waiver or consent under this Agreement binds either Party unless 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.

**15.24 Diversity, Equity, and Inclusion.** OHCS and Subgrantee commit to intentional, data driven approach to reduce disparities in housing and social service provisions. OHCS commits to creating a system to analyze OHCS funded programs and remove identified barriers to accessing opportunities within those programs.

*[The balance of this page is intentionally left blank.]*

## MASTER GRANT AGREEMENT 2021-23

### EXHIBIT C

#### SPECIAL PROVISIONS

##### **1. Procurement.**

Except as specifically provided in this Agreement, OHCS does not waive or herein provide a waiver of any regulations, requirements and/or procedures applicable to use of grant funds. For example, 2 CFR Subtitle B with guidance at 2 CFR Part 200 requires, among other things, Subgrantee's procurement procedures to mandate that all procurement transactions be conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the OHCS award does not provide the justification or basis to sole-source the procurement.

Subgrantee shall develop and maintain policies and procedures for procuring, by purchase, rental/lease or otherwise, any equipment, supplies, or other goods and services. Subgrantee must ensure that policies reflect guidance at 2 CFR, Part 200 and related regulations, as well as any applicable federal regulations with respect to The Grants Management Common Rule for procurement of all goods or services.

If allowable under this Agreement, with respect to applicable Program Element for which funds will be expended and approved or pre-approved as necessary or required by OHCS:

##### **a. Contracts for Goods and Services.**

1. Subgrantee may contract for services purchased in whole or in part with funds provided under this Agreement. Contractor must be of recognized professional expertise, certification, license, registration, or stature in the relevant field where required. Contractor shall further be registered to do business in the State of Oregon, as required by Oregon Law.  
[http://egov.sos.state.or.us/br/pkg\\_web\\_name\\_srch\\_inq.login](http://egov.sos.state.or.us/br/pkg_web_name_srch_inq.login).
2. In addition, purchases of Fixed Assets must adhere to requirements set forth in 2 CFR Part 200, Subpart D. When Subgrantee purchases any motor vehicle, or any equipment or other property costing more than \$5,000 per unit with funds provided in whole or in part under this Agreement, Subgrantee shall:
  - a. Provide written request to OHCS Program Coordinator prior to the purchase and receive required pre-approval from OHCS specific to the amount and source of funds that will be expended.
  - b. Comply with Exhibit B, Section 5, Fixed Assets.

##### **b. Construction Contracts.**

1. Subgrantee shall comply with, and OHCS' performance hereunder is conditioned upon Subgrantee's compliance with, the terms of this Agreement, including without limitation the provisions of Oregon Revised Statute Chapters 279B and 279C, as amended from time to time.
2. All Construction Contractors must be currently licensed and bonded through the State of Oregon Construction Contractors Board, <https://www.oregon.gov/ceb/Pages/index.aspx>

##### **2. Wage Determinations.**

Subgrantee shall, and shall cause and require its Subrecipients, contractors, and subcontracts, to fully comply with, on projects where DBRA prevailing wage requirements must be paid, the requirements set out in the DOL regulations at 29 CFR Parts 1, 3, and 5 as applicable. In accordance with 29 CFR Part 1, federal agencies directly contracting for weatherization projects or providing assistance under the ARRA to other entities for such projects must include the standard DBRA contract clauses found in 29 CFR 5.5(a) in their bid solicitations, assistance agreements, and the resulting



contracts and grants, and must require that those requirements flow down to any contracts or subcontracts for the performance of the work. See also Exhibit E, Davis-Bacon and Related Acts Provisions and Procedures; [www.wcol.gov](http://www.wcol.gov); and 29 CFR 5.5 - Contract provisions and related matters. Subgrantee shall, and shall cause and require its Subrecipients, contractors, and subcontracts, to fully comply with, on projects where Oregon's prevailing wage rate law, ORS 279C.800 to 279C.870 (PWRL) requirements must be paid, the requirements established therein and as established by the Bureau of Labor and Industry (BOLI), which administers the PWRL.

### **3. Emerging Small, Minority, Women-Owned Business Objectives.**

It is an important business objective of OHCS to promote the economic enhancement of small businesses (SBE), minority businesses (MBE), and women-owned businesses (WBE). Subgrantee shall have a policy that incorporates federal requirements under 2 CFR Part 200.321, including processes for placing qualified small and minority businesses and women's business enterprises on solicitation lists and dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.

Subgrantee may use the COBID Certification Management System to assist in soliciting quotes or invite bids from MWESBs. <https://oregon4biz.diversitysoftware.com/>

### **4. Subrecipient Agreements (Subawards).**

Subgrantee shall not enter into any agreement or renewal with Subrecipients without prior written approval of OHCS Program Coordinator(s) as outlined in Exhibit B, Section 15.15. OHCS' approval of any subrecipient shall not relieve Subgrantee of any of its duties or obligations under this Agreement.

Subgrantee shall require and cause its subrecipients to comply with all applicable provisions of this Agreement between OHCS and Subgrantee, each of which must be specifically incorporated into the subrecipient agreements in a manner satisfactory to OHCS. OHCS reserves the right to request that any subrecipient agreement be submitted for review and approval by OHCS within ten (10) business days from the date of written request.

Subgrantee shall require and cause that all of its subrecipient agreements related to this Agreement must include language specifying that such agreements are subject to termination upon such a directive to Subgrantee by OHCS and that OHCS shall not be liable to any of the parties of that agreement or to other persons for directing that such agreement be terminated.

Subgrantee shall have a written agreement with each subrecipient that is consistent with this Agreement, including without limitation, relevant Exhibits and Implementation Reports that identify:

- a. The services or benefits that the Subrecipient must provide when delivering the program.
- b. The laws and regulations with which the subrecipient must comply under the terms of the agreement (including but not limited to program specific requirements such as eligibility criteria and matching obligations, public policy for protecting civil rights and the environment, written procedures for appeal by clients of subrecipient determinations, government-wide administrative mandates affecting the Subrecipient's accounting and record keeping systems, and local laws imposed by Subgrantee).
- c. The Subgrantee's and OHCS' monitoring rights and responsibilities and the methods used by Subgrantee for monitoring.
- d. A provision to certify that the Subrecipient is an independent contractor and not an agent of OHCS or of Subgrantee.

### **5. Subgrant or Contractual Determination.**

A Subrecipient is a state government, local government, or nonprofit organization that expends subawarded funds received by Subgrantee from OHCS under this Agreement to carry out a program. Subgrantee must determine whether relevant payments made or to be made by it in furtherance of this Agreement constitute an award under a subgrant received by a Subrecipient or a payment for goods and services under a procurement contract received by a contractor. Determination must be made using the criteria set forth in 2 CFR Part 200.331.

**a. Use of Judgment in Making Determination.**

There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subgrant or contractual relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be uniformly present. Accordingly, prudent judgment shall be exercised by Subgrantee and should be used in determining whether an entity with which it contracts to accomplish its performance under this Agreement is a Subrecipient or vendor.

**b. Applicability to For-profit Subrecipients.**

Subgrantee (as the pass-through entity) shall establish reasonable requirements, as necessary, to ensure compliance by for-profit subrecipients. Consequently, Subgrantee should describe in any agreements with for-profit subrecipients the applicable compliance requirements and the for-profit subrecipient's compliance responsibilities. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits.

**c. Compliance Responsibility for Contractors.**

In most cases, the Subgrantee's or other auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt and payment for goods and services comply with laws, regulations and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to contractors. However, the Subgrantee or other auditee shall be responsible for ensuring compliance for contractor transactions that are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these contractor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations and the provisions of contracts or grant agreements.

Regardless of whether goods or services are provided by a subrecipient or contractor, Subgrantee is still responsible for ensuring compliance with all grant requirements including but not limited to tracking and reporting requirements by the Agreement.

**6. Responsibility for Work.**

Subgrantee shall timely perform all Work identified in this Agreement consistent with its terms and conditions, including without limitation, the Work required with respect to the applicable Program Elements, Implementation Reports, and NOA's. OHCS may add additional approved Implementation Reports and NOAs to Exhibit A of this Agreement from time to time with the written approval of Subgrantee.

**7. Implementation Report(s) and Budget(s).**

Each Implementation Report is unique to the Subgrantee. It must be consistent with and reflect the purposes of the related Program Elements and the methods proposed by the Subgrantee and its subrecipients, in detail acceptable to OHCS, to administer and/or deliver the Work associated with the requirements of the applicable Program Elements. Implementation Report Budgets must reflect the manner, in detail acceptable to OHCS that related grant funds will be employed to accomplish the corresponding Work and are subject to corresponding NOAs.

Subgrantee must request and receive prior written approval from OHCS for amendments to or deviations from its approved Implementation Reports. OHCS may give or withhold such approval at its sole discretion. OHCS may allow the combining of applicable Implementation Reports at its sole discretion.



Subgrantee shall perform all Work in accordance with the terms and conditions of this Agreement, including but not limited to applicable Program Elements, Implementation Reports, and NOAs, in a manner satisfactory to OHCS.

**8. Maintenance of Programmatic Capacity and Non-Compliance.**

Subgrantee shall provide for and maintain the capacity for administration and performance of all Work required under this Agreement so as to result in a timely usage of grant funds.

OHCS remedies for Subgrantee non-compliance with any Work or other Agreement requirements (including all applicable Program Requirements), including for untimely usage of grant funds, may include, among other things, the withholding of requested grant funds or the reduction and redistribution of current or future funding allocations. OHCS may also impose conditions to specific grants received by Subgrantee in the event of reoccurring non-compliance on part of Subgrantee.

**9. Financial Integrity.**

Subgrantee shall be responsible for financial integrity of accounting records and compliance with the following requirements in addition to those otherwise required under this Agreement:

- a. Subgrantee shall and shall cause its subrecipients (including by contract) to, prepare and maintain accurate financial records documenting all expenditures made from funds provided under this Agreement. These records shall include financial and audit reports for the applicable accounting period for the applicable Program Element, including adjustments to reconcile the accounting records.
- b. Subgrantee shall reimburse expenditures of subrecipients under this Agreement only if they are:
  - 1. Named as a subrecipient receiving grant funds in the OHCS approved Implementation Report.
  - 2. In payment of eligible activities or services performed under this Agreement.
  - 3. In payment of services performed or supplies delivered during the applicable Program Element period;
  - 4. In the aggregate not in excess of 100% of the funds provided to the respective applicable Program Element under this Agreement; and
  - 5. Not for duplicate payment for the same activities or services under both this Agreement and any other contract or agreement with Subrecipients.
- c. Subgrantee shall pay its subrecipients within thirty (30) days of the date of requests for payment.
- d. Subgrantee shall maintain documentation of its monitoring of subrecipients. The documentation shall include, but not be limited to:
  - 1. An agreement that complies with the requirements of this Agreement.
  - 2. Documentation of the non-profit status of the subrecipient; and
  - 3. Copies of all of the Subrecipients audits performed under the requirement of 2 CFR Subtitle B with guidance at 2 CFR, Part 200, as well as applicable supplemental regulations, if the subrecipient is required to have such an audit.
  - 4. Documentation of follow up that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award as detected through audits, on-site reviews, and other means.

5. Documentation of other methods used by Subgrantee for monitoring subrecipient activities.
- e. Subgrantee shall maintain an Accounting System which conforms with the following requirements:
    1. Expenditures shall be segregated by line-item category within the accounting system of Subgrantee or subrecipient, as the case may be, and reported on the required fiscal reports.
    2. Funds received together with any income that is attributable to funds provided thereby shall be identified and segregated for expenditures relating to the Program Elements for which the original funds were provided. Any allocation methodology shall comply with any requirements applicable to that entity or Program Element.
    3. Receipts that offset or reduce expense items allocable to the Federal award as direct or indirect costs must be credited to the federal award either as a cost reduction (reduction of expense) or cash refund, as appropriate.
  - f. Subgrantee shall develop and maintain a policy that describes all direct and indirect methods of cost allocation that are applicable to OHCS grants.

OHCS may, in its sole discretion, reduce Subgrantee funding and redistribute such grant funding to other Subgrantees. Adjustments pursuant to this subsection may be implemented by means of the Notices of Allocation (NOA) described in this Agreement. This remedy is in addition to any other remedy allowed OHCS under this Agreement.

#### **10. Programmatic Integrity**

Subgrantee shall be responsible for programmatic integrity and compliance with the programmatic intent including but not limited to the following requirements:

Subgrantee shall provide and maintain adequate resources necessary to ensure that all staff, Subgrantee and subrecipient, are adequately trained to perform under this Agreement including, but not limited to the training in processing of eligibility determinations and authorizations or other programmatic and/or grant compliance requirements.

Subgrantee shall comply with programmatic regulations and guidelines as detailed in Exhibit B, Standard Terms and Conditions.

Subgrantee shall have a written procedure for the handling of client appeal of determinations, acceptable to OHCS.

#### **11. Reporting**

In addition to specific reporting requirements addressed elsewhere in this Agreement and, including its Exhibits and Attachments, Subgrantee shall and shall cause its subrecipients (including by contract) to:

Submit the required reports so that they are received by OHCS on or before the due dates specified herein this Agreement, as outlined in the applicable Implementation Report or otherwise, as newly required by any provider of funding under this Agreement, or as otherwise required by OHCS. Subgrantee shall require its subrecipients (including by contract) to submit the required reports to Subgrantee in sufficient time to allow Subgrantee to fulfill its reporting obligations to OHCS.

All reports shall be timely, complete, accurate and satisfactory to OHCS as well as in the format required by OHCS. No funding pursuant to an implementation report will be forthcoming until such implementation report has been approved by OHCS. OHCS reserves the right to require modifications to submitted implementation reports. Funding also may be subject to receipt and approval of other reporting under this Agreement.

Reports must agree with the accounting records maintained by Subgrantee and/or its Subrecipients and be certified by the chief executive officer or their designee of the Subgrantee or its subrecipients, as the case may be.

FSRs (Financial Status Reports) are due to OHCS on the 20<sup>th</sup> of the month following the end of a quarter. All final reports shall be submitted by Subgrantee so as to be received by OHCS on or before the 60th day following the last day of the applicable Program Element period, or the date that all activities funded by this Agreement for that Program Element are completed, whichever is earlier.

If Subgrantee fails to produce or timely submit reports satisfactory to OHCS, OHCS may withhold any or all reimbursement requests of Subgrantee under this Agreement or any other contract or agreement in effect between OHCS and Subgrantee except as expressly limited by law. OHCS also may reduce, suspend, terminate and/or redistribute any or all grant funds due to Subgrantee failure to produce or timely submit reports satisfactory to OHCS.

**12. Eligibility Determination.**

Subgrantee shall make eligibility determinations for its respective Program Element funds in a form and manner prescribed or authorized by OHCS.

*[The balance of this page is intentionally left blank.]*

## MASTER GRANT AGREEMENT 2021-23

### EXHIBIT D

#### FEDERAL ASSURANCES; TERMS AND CONDITIONS

Subgrantee hereby assures, warrants, covenants, and certifies that with respect to any federal funds disbursed to it under this Agreement:

**A. Application, Acceptance and Use of Federal Funds.** Use, Compliance with Federal Law; Subgrantee shall comply with all applicable Federal regulations, policies, guidelines, and requirements, as may be modified from time to time, as they relate to the application, and use of all federal funds under this Agreement which may include, but are not limited to 2 CFR Subtitle B with guidance at 2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB Super Circular effective December 23, 2014). The U.S. Treasury has supplemented the foregoing at Section 501(a) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 and U.S. Treasury interpretive guidance.

**B. Further Assurances.** As the duly authorized representative of the Subgrantee, I assure, warrant, covenant, and certify that the Subgrantee, in addition to complying with 2 CFR Subtitle B with guidance at 2 CFR, Part 200, 2 CFR Part 300, and Section 501(a) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 and U.S. Treasury interpretive guidance, shall comply and, require all Subrecipients and Vendors, as applicable, to comply with the following federal requirements, as they may be amended from time to time.

#### GENERAL ASSURANCES

**1. Miscellaneous Federal Provisions.** Subgrantee shall comply and require all subrecipients to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, Subgrantee expressly agrees to comply and require all subrecipients to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, (c) the Age Discrimination in Employment Act of 1967, and the Age Discrimination Act of 1975, (d) Title IX of the Education Amendment of 1972, (e) the Drug Abuse Office and Treatment Act of 1972, (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (g) Section 523 and 527 of the Public Health Service Act of 1912, (h) Title VIII of the Civil Rights Act of 1968, (i) the Hatch Act (U.S.C. 1501-1508 ad 7328), (j) Davis-Bacon Act (40 U.S.C. 276a to 276a7), (k) the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), (l) the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), (m) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to this Agreement 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 Agreement, including amendments, is for more than \$10,000, then Subgrantee shall comply and require all subrecipients to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended.



**3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$150,000 then Subgrantee shall comply and require all subrecipients to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to Agency, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Subgrantee shall include and require all subrecipients to include in all Agreements with subrecipients receiving more than \$150,000, language requiring the subrecipient to comply with the federal laws identified in this section.

**4. Other Environmental Standards.** Subgrantee shall comply and require all subrecipients to comply with all applicable environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order 11514; (b) protection of wetlands pursuant to Executive Order 11990; (c) evaluation of flood hazards in flood plains in accordance with Executive Order 11988; (d) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.); (e) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (f) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (g) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

**5. Energy Efficiency.** Subgrantee shall comply and require all subrecipients 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).

**6. Truth in Lobbying.** By signing this Agreement, the Subgrantee certifies, to the best of the Subgrantee's knowledge and belief that:

**a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Subgrantee, 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 Subgrantee shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

**c.** The Subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

**d.** This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or

entering into this Agreement imposed by Section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**e.** No part of any federal funds paid to Subgrantee under this Agreement shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

**f.** No part of any federal funds paid to Subgrantee under this Agreement 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 Subgrantee under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

## **7. Audits.**

**a.** Subgrantee shall comply, and require any subrecipient to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.

**b.** If Subgrantee receives federal awards in excess of \$750,000 in a fiscal year, Subgrantee is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to Agency within 30 days of completion.

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

**8. Debarment and Suspension.** Subgrantee shall not permit any person or entity to be a subrecipient 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. Subrecipients 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.** Subgrantee shall comply and cause all subrecipients to comply with the following provisions to maintain a drug-free workplace: (i) Subgrantee 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 Subgrantee's workplace or while providing services to Agency clients. Subgrantee's notice shall specify the actions that will be taken by Subgrantee 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, Subgrantee's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify Agency within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by 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 subrecipient to comply with subparagraphs (i) through (vii) above; (ix) Neither Subgrantee, or any of Subgrantee's employees, officers, agents or subrecipients may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Subgrantee or Subgrantee's employee, officer, agent or subrecipient has used a controlled substance, prescription or non-prescription medication that impairs the Subgrantee or Subgrantee's employee, officer, agent or subrecipient's performance of essential job function or creates a direct threat to Agency clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of the Agreement.

**10. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. The Subgrantee agrees that it has been provided the following notice:

**a.** The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:

- (1) The copyright in any Work developed under a grant, subgrant or contract under a grant or subgrant; and
- (2) Any rights of copyright to which a Subgrantee, subrecipient or a contractor purchases ownership with grant support.

**b.** The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants,



Contracts and Cooperative Agreements.”

c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

**11. Super Circular Requirements.** 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:

**a. Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

**b. Procurement Standards.** When procuring goods or services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.

**c. Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of Subgrantee, and Subgrantee shall also include these Agreement provisions in its contracts with non-Federal entities.

**12. Federal Whistleblower Protection.** Recipient shall comply, and ensure the compliance by subcontractors or subrecipients, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information. Therefore, in part, Subgrantee, its subrecipients, and contractors shall, inform its or their employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.

**13. System for Award Management (SAM) reporting (41 USC § 2313).** The Subgrantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. The Subgrantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subrecipients"), including restrictions on subawards to entities that do not acquire and provide (to the Subgrantee) the unique entity identifier required for SAM registration.

**14. Requirement to report breach of personally identifiable information (PII) per OMB M-17-12.** The Subgrantee (and any subrecipient at any tier) must have written procedures in place to respond in the event of breach (as defined in OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of personally identifiable information (PII) (as defined in 2 C.F.R. 200.79) within the scope of a grant-funded program or activity, or 2) uses or operates a Federal information system. The Subgrantee's breach procedures must include a requirement to report actual or imminent breach of PII to Grantor no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

# MASTER GRANT AGREEMENT 2021-2023

## EXHIBIT E

### HISTORIC PRESERVATION

#### 1. Introduction

OHCS has entered into a Programmatic Agreement (“**Programmatic Agreement**”) with the United States Department of Energy (“**USDOE**”), Oregon State Historic Preservation Office (“**ORSHPO**”) and the Advisory Council on Historic Preservation (“**ACHP**”) regarding properties affected by use of federally funded state weatherization assistance.

OHCS has determined that the administration of these programs may have an affect on properties included in or eligible for inclusion in the National Register of Historic Places (National Register) and has consulted with ORSHPO pursuant to 36 CFR 800.13 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470F).

#### 2. Stipulations

OHCS and Subgrantee agree that the programs will be administered in accordance with the following stipulations to satisfy the Section 106 responsibilities for all individual undertakings of the weatherization assistance.

##### A. APPLICABILITY

Subgrantee shall ensure that the review process established by the Programmatic Agreement will be completed prior to weatherization measures being installed. Undertakings that involve properties greater than fifty (50) years old and are not listed in Section B- Exempt Activities, shall be submitted to the ORSHPO for review in accordance with this agreement.

##### B. EXEMPT ACTIVITIES - PROJECTS NOT REQUIRING REVIEW BY ORSHPO

All undertakings will be done in accordance with applicable local building codes or the International Building Code, where applicable. In accordance with 36 CFR 800.3(a)(1), the following undertakings have been determined to have no potential to cause effects on historic properties:

1. Projects affecting properties less than fifty (50) years old at the time the work takes place; provided it has not been determined to be eligible under National Register Criterion Consideration G for exceptional significance (36 CFR 60.4).
2. Exterior Work
  - a. Air sealing of the building shell, including caulking, weather-stripping, window glazing and in-kind glass replacement on windows and doors, and installing thresholds in a manner that does not harm or obscure historic windows or trim, or prevent them from operating.
  - b. Thermal insulation, such as non-toxic fiberglass and foil wrapped, in walls, floors, ceilings, attics, and foundations in a manner that does not harm or damage historic fabric.
  - c. The installation of dense pack wall insulation when the following conditions are met:
    - i. The installation is performed by a qualified contractor who follows the standards and guidelines that OHCS has implemented for dense pack insulation (dry installation) and must meet the maximum air permeance measured using BPI – 102 “Standard for Air Resistance of Thermal Insulation Used in Retrofit Cavity Applications”;
      1. Cellulose: density of installed insulation must be 3.5 pounds/ cu ft.
      2. Fiberglass: density of installed insulation must be 2.5 pounds/cu ft or meet manufacturer’s specifications. Material must meet ASTM C522, E283, or E2178.
    - ii. The building does not display construction methods, techniques, and/or materials that are uniquely susceptible to damage that could be caused by the introduction of wall insulation (e.g., the siding does not appear to be able to withstand removal and replacement; the siding is masonry or stucco; there appear to be unique historic wall assemblies);

- iii. Portions of the siding are carefully removed before blowing dense pack cellulose into the walls, and then replaced;
  - iv. The exterior wall surface is free from areas where water can leak into the wall cavity (caulking around window openings and other wall penetrations has occurred or is part of the project);
  - v. There are no untreated wood members in direct contact with the ground, and the distance from the ground to the sill plate is more than 6 inches to keep water from wicking up into the wall cavity;
  - vi. The potential for splash back from rain dripping from roofs is minimized with functioning gutters and/or other water diversion features;
  - vii. There are overhanging eaves, and/or other protection is in place to protect the wall surface from the elements (rain and wind);
  - viii. Post diagnostic testing (blower door tests) results must meet the ASHRAE 62.2-2016 Standard;
  - ix. Number of occupants and use is considered in evaluating expected interior moisture levels; and
  - x. Exhaust Fans are installed according to ASHRAE 62.2-2016 Standard.
- d. Removable film on windows (if the film is transparent), solar screens, or window louvers, in a manner that does not harm or obscure historic windows or trim.
  - e. Reflective roof coating in a manner that matches the historic materials and form, or with materials that restore the original feature based on historic evidence, and in a manner that does not alter the roofline, or where not on a primary roof elevation or visible from the public right-of-way.
  - f. Storm windows or doors, and wood screen doors in a manner that does not harm or obscure historic windows or trim.
  - g. In-kind replacement or repair of primary windows, doors and door frames. In-kind is defined as an exact replacement of existing material type, design, dimensions, texture, detailing, finish and exterior appearances.
  - h. Repair of minor roof and wall leaks prior to insulating attics or walls, provided repairs closely resemble existing surface composite.
  - i. Weatherization of mobile homes and trailers.

### 3. Interior Work:

Special Note: Undertakings to interior spaces where the work will not be visible from the public right of way; no structural alterations are made; no demolition of walls, ceilings or floors occurs; no drop ceilings are added; no character defining interior features will be impacted, or no walls are leveled with furring or moved, will be automatically excluded from ORSHPO review. This work includes:

- a. Energy efficiency work within the building shell:
  - i. Thermal insulation in walls, floors, ceilings, attics, crawl spaces, ducts and foundations;
  - ii. Blown in wall insulation installed from the interior where no decorative plaster or character defining features are damaged;
  - iii. Plumbing work, including installation of water heaters;
  - iv. Electrical work, including improving lamp efficiency;
  - v. Sealing air leaks using weather stripping, door sweeps, and caulk and sealing major air leaks associated with bypasses, ducts, air conditioning units, etc.;
  - vi. Repair or replace water heaters;
  - vii. Adding adjustable speed drives such as fans on air handling units, cooling tower fans, and pumps;
  - viii. Install insulation on water heater tanks and water heating pipes;
  - ix. Install solar water heating systems, provided the structure is not visible from the public right of way;

- x. Install waste heat recovery devices, including desuperheater water heaters, condensing heat exchangers, heat pump and water heating heat recovery systems, and other energy recovery equipment;
- xi. Repair or replace electric motors and motor controls like variable speed drives;
- xii. Incorporate other lighting technologies such as dimmable ballasts, day lighting controls, and occupant-controlled dimming.

b. Work on heating and cooling systems:

- i. Clean, tune, repair or replace heating systems, including furnaces, boilers, heat pumps, vented space heaters, and wood stoves;
- ii. Clean, tune repair or replace cooling systems, including central air conditioners, window air conditioners, heat pumps, and evaporative coolers;
- iii. Install insulation on ducts and heating pipes;
- iv. Conduct other efficiency improvements on heating and cooling systems, including replacing standing pilot lights with electronic ignition devices and installing vent dampers;
- v. Modify duct and pipe systems so heating and cooling systems operate efficiently and effectively, including adding return ducts, replace diffusers and registers, replace air filters, install thermostatic radiator controls on steam and hot water heating systems;
- vi. Install programmable thermostats, outdoor reset controls, UL listed energy management systems or building automation systems and other HVAC control systems.

c. Energy efficiency work affecting the electric base load of the property:

- i. Convert incandescent lighting to fluorescent;
- ii. Add reflectors, LED exit signs, efficient HID fixtures, and occupancy (motion) sensors;
- iii. Replace refrigerators and other appliances.

d. Health and safety measures

- i. Installing fire, smoke or carbon dioxide detectors / alarms;
- ii. Repair or replace vent systems on fossil-fuel-fired heating systems and water heaters to ensure that combustion gasses draft safely to outside;
- iii. Install mechanical ventilation, in a manner not visible from the public right of way, to ensure adequate indoor air quality if house is air-sealed to building tightness limit.

C. OHCS/SUBGRANTEE/SUBRECIPIENT RESPONSIBILITIES

1. Subgrantee will, and will cause and require by contract that its Subrecipients, retain access to pre- and post-documentation of the weatherization work completed, including the scopes of work and photographs as part of its permanent project records.
2. OHCS will monitor every Subgrantee, and Subgrantee will monitor each of its Subrecipients, for compliance with the Programmatic Agreement according to established guidelines and Subgrantee hereby agrees, and will require that each of its Subrecipients agree:
  - a. to cooperate with such monitoring; and
  - b. to satisfy all applicable Section 106 requirements, including but not limited to the Secretary of Interior's Standards for Rehabilitation.

D. ORSHPO/ACHP RESPONSIBILITIES

1. ORSHPO is permitted thirty (30) calendar days after the receipt of any submitted documentation to review and comment on such material. If ORSHPO does not provide comments within this time period, it may be assumed that ORSHPO accepts the documentation to meet the reporting requirements of this agreement.
2. The ACHP shall be responsible for providing technical guidance, participating in dispute resolutions if appropriate, and monitoring the effectiveness of this Programmatic Agreement.



#### E. DISCOVERIES AND UNFORESEEN EFFECTS

If, during the implementation of these programs, a previously unidentified property that may be eligible for inclusion in the National Register is encountered, or is affected in an unanticipated manner, the Subgrantee responsible for the weatherization will assume its responsibilities pursuant to 36 CFR 800.13. Subgrantee will require that any of its Subrecipients responsible for the weatherization will assume its responsibilities pursuant to 36 CFR 800.13.

#### F. REPORTING

Subgrantee will and will cause and require by contract that its Subrecipients, report all projects that fall under this Programmatic Agreement in the OPUS database upon completion.

#### G. MONITORING

USDOE, ACHP, and ORSHPO may monitor any undertakings carried out pursuant to this Programmatic Agreement. The ACHP may review undertakings, if requested by USDOE. USDOE shall be entitled to address and make determinations on overall policy or administrative issues related to the implementation of these Programs.

#### H. DISPUTE RESOLUTION

1. Should ORSHPO object within the time frames outlined in this Programmatic Agreement to any project undertakings, the Subgrantee shall consult further with ORSHPO to attempt to remove the basis for the ORSHPO's objection. In the event that ORSHPO's objection is not withdrawn, then OHCS shall refer the matter to USDOE. OHCS shall forward all documentation relevant to USDOE, who will notify and consult with ACHP.
2. ACHP will provide its recommendations, if any, within 21 days following receipt of relevant documentation. USDOE will take into account the ACHP's recommendations or formal comments in reaching a final decision regarding the dispute.

#### I. TERMINATION

USDOE, ORSHPO, or OHCS may terminate the Programmatic Agreement, provided that the party proposing termination notifies the other signatories and the ACHP in writing explaining the reasons for termination and affording the other signatories at least thirty (30) days to consult and seek alternatives to termination.

#### J. FAILURE TO COMPLY WITH TERMS OF AGREEMENT

In the event that the terms of the Programmatic Agreement cannot be carried out by the Subgrantee, no action will be taken or sanction of any action or any irreversible commitment by the Subgrantee that would result in an adverse effect to historic properties or would foreclose the ACHP's consideration of modifications or alternatives to the undertaking.

#### K. LIABILITY LIMITATIONS

In the event that the terms of the Programmatic Agreement are not carried out by the Subgrantee as indicated in Exhibit E, the Subgrantee hereby assumes all responsibility for the weatherization projects as indicated in the Programmatic Agreement or this Agreement.

#### L. THIRD PARTY BENEFICIARY

ORSHPO is expressly made a third-party beneficiary to the Subgrantee's obligations set forth in this Exhibit E and shall be entitled to enforce the terms thereof.



**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit F, Program Element, General Terms and Conditions**

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Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

- 1) Assure that program funds are used only for program services consistent with program requirements.
- 2) Assure that program funds are used to supplement existing funding, to support existing projects or to establish new projects. Program funds may not be used to replace existing funding.
- 3) Ensure that program funds are expended within the time limitations set by OHCS. Program funds not expended within the time period may be recaptured by OHCS.
- 4) Serve only households whose eligibility has been determined in compliance with program requirements.
- 5) Responsible to OHCS for any losses resulting from improper or negligent issuance of program funds. Subgrantee shall repay such funds to OHCS within thirty (30) days upon written demand from OHCS.
- 6) Have denial, termination, appeal and fair hearing procedures accessible to program applicants and participants upon request and posted in a public location. Such procedures must satisfy applicable program requirements including assurance that all applicants are informed during the intake interview of their right to appeal. All appeals and fair hearings will be handled by the subgrantee. Denial, termination, appeal and fair hearing procedures, including as implemented, are subject to department review and correction.
- 7) Subgrantee may terminate program services to program participants who violate program requirements. Termination, denial and grievance procedures will be clearly communicated to and easily understood by program participants and readily available upon request and posted in a public location.
- 8) Be responsible for maintaining an internal controls framework, satisfactory to OHCS, which assures compliance with program requirements. Written policy and procedures must be established and outlined in local documentation (e.g. staff policy/procedure manuals) inclusive of, but not exclusive to the following areas:
  - a) Establishment and maintenance of regular subrecipient monitoring practices. Subgrantee will obtain prior written approval from OHCS when adding additional subrecipients or renewing any subrecipients.
  - b) Assurance that completed applications and household benefits are valid and correct. This includes adequate separation of duties among intake, authorization and fiscal staff.
  - c) Establishment and maintenance of clear policy for cases where there may be a conflict of interest. This includes procedures for staff when employees, board members, friends or family members apply for program services.
  - d) Establishment and maintenance of clear procedures for management of program applicants and participants who may have committed fraud and for dealing with public complaints regarding potential fraud. All incidents of fraud must be reported to OHCS.
  - e) Establishment and maintenance of clear procedures for preventing, detecting and dealing with employee fraud. All incidents of fraud must be reported to OHCS.

- 9) Allow OHCS and its representatives access to, and to furnish whatever information and/or documentation OHCS and its representatives determines is necessary or appropriate to conduct reviews and monitor progress or performance to determine conformity with program requirements. Subgrantee shall permit OHCS and its representatives to visit its sites and require subrecipients to permit OHCS and its representatives to visit their sites, to inspect same, and to review, audit, and copy all records OHCS and its representatives deem pertinent to evaluating or enforcing program requirements at any reasonable time, with or without benefit of prior notification. Subgrantee and its subrecipients shall cooperate fully with OHCS and its representatives.
- 10) Maintain accurate financial records satisfactory to the department, which document, *among other things*, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, *among other things*, generally accepted accounting principles.
- 11) Maintain other program records satisfactory to the department, which document, *among other things*, client eligibility requirements, receipt of allowable program services, termination of services and the basis for same, housing and income status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.
- 12) Provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required or requested from time to time by the department, which shall be in a format prescribed by the department.
- 13) Furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.
- 14) Assure that data collection and reporting, including data entry for program funded activities, be conducted through the use of an OHCS approved data collection system (such as ServicePoint and OPUS), where applicable by program requirements.
- 15) Ensure that data collection, entry and reporting occur in an accurate and timely manner as satisfactory to OHCS.

**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element 01**  
**Community Services Block Grant Program (CSBG)**

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1. **Description.** The Community Services Block Grant (CSBG) Program is an anti-poverty block grant program federally funded by the U.S. Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), Office of Community Services (OCS), that provides funds for distribution principally to Oregon's local community action agencies to create programs and services that reduce the causes of poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient.
2. **Scope of Work.**
  - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including CFDA 93.569, Public Law 105-285, OAR 813-210, OAR 813-230, and 45 CFR 96. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
  - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer CSBG funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
    - 1) Use grant funds allocated specifically by OHCS for allowable administrative and overhead costs in order to provide the services outlined in this agreement. Subgrantee shall adhere to the DHHS CSBG administrative efficiency measure of a maximum of 17% or a reasonable measure as approved by OHCS. Allowable administrative costs are defined as costs related to the general management of the grantee organization. Allowable program costs are defined as costs that can be specifically identified with program activities including but not limited to, management, service delivery and data collection, undertaken by subgrantee or subrecipients to achieve an outcome intended by the funding program.
    - 2) Assure that funds allocated through CSBG shall be used to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.), homeless families and individuals, migrant or seasonal farm workers, and elderly low-income individuals and families.
    - 3) Use program funds to implement different strategic approaches designed to reduce or eliminate one or more conditions that block the achievement of economic self-sufficiency for low-income households. Such strategies must have measurable and potentially major impact on the causes of poverty in communities in the service area where poverty is a particularly acute problem. Allowable services and activities may include, but are not limited to helping members of low-income households:
      - a. Secure and retain meaningful employment;
      - b. Attain an adequate education;
      - c. Make better use of available income;
      - d. Obtain and maintain adequate housing and a suitable living environment;
      - e. Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance;
      - f. Remove obstacles and solve problems that block the achievement of self-sufficiency;

**MGA 21-23 Exhibit A, Attachment # PE 01 CSBG**

- g. Achieve greater participation in the affairs of the community; and
  - h. Make effective use of other programs related to the purpose of this OAR chapter 813, division 210.
- 4) Use program funds for a variety of services and activities intended to reduce or eliminate poverty conditions in communities in the service area, including but not limited to:
    - a. Providing on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services as may be necessary to counteract conditions of starvation and malnutrition among the poor;
    - b. Coordinating and establishing linkages between government and other social service programs to assure the effective delivery of such services to low-income households; and
    - c. Encouraging the participation of private sector entities in community efforts to ameliorate poverty in the service area.
  - 5) Assure that households receiving CSBG program benefits do not have annual incomes which exceed 200% of the federal poverty guidelines or the maximum as assigned by DHHS, ACF, OCS. Income verification includes, but is not limited to: wages (pay stubs), assistance payments such as alimony, SSI, TANF, child support, veteran's benefits, unemployment benefits, worker's compensation, retirement/pension and social security benefits.
  - 6) Assure that all necessary documentation is included in household files, all in form and substance satisfactory to OHCS. Required documents for each applicant household are as follows:
    - a. Application/intake form that includes client characteristic data;
    - b. Intake form has language stating all information contained on form is true and correct to the best of my knowledge and is signed by applicant and staff member;
    - c. Verification that household income does not exceed 200% of the FPL or the maximum as assigned by DHHS, ACF OCS to cover the 200% FPL which is a temporary change and will revert back to 125% after September 30, 2021.
    - d. Documentation of income or self-declaration for clients with zero income;
    - e. Evidence that client was apprised of grievance procedures;
    - f. Authorization of Release of Information, signed and dated by client and staff member;
    - g. Confidentiality statement, signed and dated by client and staff member;
    - h. If applicable, evidence that the client was informed of their potential eligibility for child support services and informed of the locations of local resources;
    - i. Entrance, exit date, reason for exiting the program, housing status at exit; and
    - j. Such other documentation as OHCS may from time to time require.
  - 7) Administer the Community Services Block Grant program through a tripartite board composed of 1/3 public officials, no fewer than 1/3 are representative of low-income individuals and families and 1/3 are officials or members of business, industry labor, religious, law enforcement, education or other major groups and interests in the community served.
  - 8) Retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

### **3. Program Specific Reporting.**

- A. Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.
- B. Subgrantee agencies shall provide the department with quarterly reports covering items set forth in OAR 813-210-0025(2) and (3), which shall be in a format prescribed by the department. Such quarterly reports shall be coded in such a way as to allow the linking and analysis of expenditures for each separate service funded by the program.
- C. Reports submitted shall include:
  - 1) Quarterly report, by date determined by OHCS.
  - 2) Annual submission of the CSBG Annual Report, by date determined by OHCS Annual Organizational Standards Assessment, by date determined by OHCS.
  - 3) Additional reports as needed or requested by OHCS.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element 02**  
**Emergency Solutions Grant Program (ESG)**

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**1. Description.** The Emergency Solutions Grant (ESG) program supports local programs in assisting individuals and families to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. ESG is federally funded by the U.S. Department of Housing and Urban Development (HUD) and may be used for five program service components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS pursuant to 24 CFR Part 5, subpart F, Part 91 and Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545.

**2. Scope of Work.**

A) Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS, and supplemented herein, together with applicable program requirements including HEARTH Act, 24 CFR Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

- 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements.
- 3) Comply with department minimum written standards for providing program services and established Continuum of Care standards as identified in 24 CFR 576.400(e).
- 4) Re-evaluate program participant eligibility and need for program services for homelessness prevention and rapid re-housing in compliance with program requirements.
- 5) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee's funding application.
- 6) Comply with Conflict of Interest standards for both individuals and organizations as identified in 24 CFR 576.404(a), 24 CFR 85.36, and 24 CFR 84.42.

**3. Program Specific Reporting.**

A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.

B) Reports submitted shall include:

- 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
- 2) Subgrantee shall provide additional reports as needed or requested by OHCS.

#### **4. Match Requirements.**

- A) Subgrantee shall make matching contributions, in compliance with 24 CFR 576.201 to supplement the program in an amount that equals the subgrantee's total fund allocation. Subgrantee may obtain matching cash and noncash contributions from any source that meets program requirements except for the expenditure limits identified in 24 CFR 576.100. Program requirements for matching include, but are not exclusive to:
- 1) Subgrantee shall not use federal funds if those funds:
    - (a) are prohibited from being used to match program funds; or
    - (b) are being used to match another federal grant or award.
  - 2) Subgrantee program match shall be provided and expended within the subgrantee's program grant award period.
  - 3) Subgrantee contributions used to match a previous program grant shall not be used to match a subsequent program grant.
  - 4) Subgrantee shall calculate the amount of cash and noncash contributions in compliance with 24 CFR 576.201.
- B) Subgrantee shall report matching contributions on the Quarterly Provider Report.
- C) Subgrantee may request from OHCS a waiver to the match requirement when circumstances limit capacity to provide the program required 100% match.

#### **5. Performance Measures.**

- A) Subgrantee shall and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals.
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at the time of their exit from the program or project funded by the program. Preliminary statewide target is 30%.
  - 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from time of program or project exit. Statewide target is 80%.
  - 3) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element PE 03**  
**Emergency Housing Assistance (EHA)**

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1. **Description.** Emergency Housing Assistance (EHA) provides state funds to supplement existing local programs and/or establish new programs designed to prevent and reduce homelessness. EHA funds are available for ten program service components: street outreach, emergency shelter; transitional housing; rapid re-housing; homelessness prevention; supportive in-home services; data collection; community capacity building; acquisition, rehabilitation or conversion of a shelter or transitional housing units.
2. **Scope of Work.**
  - A) Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including OAR 813.046 as amended, and ORS 458.600 to 458.650. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
  - B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with the all program requirements, including but not limited to the following terms and conditions:
    - 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
    - 2) A department determined portion of program funds shall be allocated to exclusively serve eligible veterans, as defined by program requirements.
    - 3) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements.
    - 4) Assure that program services are available to extremely low income and very low income households, including but not limited to, veterans, persons more than 65 years of age, disabled persons, farm workers and Native Americans, who meet program eligibility requirements.
    - 5) Re-evaluate program participant eligibility and need for homelessness prevention and rapid re-housing services in compliance with program requirements.
    - 6) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements and shall be outlined and approved by OHCS in the subgrantee's funding application prior to implementation. Targeting and serving homeless and at risk of homelessness veterans is required for the use of program funds that have been legislatively dedicated to serving veterans.
3. **Program Specific Reporting.**
  - A) Subgrantee shall, and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary. EHA funds dedicated to veterans must be entered and reported separately from other EHA funded client data.

B) Reports submitted shall include:

- 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
- 2) Subgrantee shall provide additional reports as needed or requested by OHCS.

**4. Performance Measures.**

A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals:

- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.
- 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from the time of program or project exit.
- 3) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element 04**  
**State Homeless Assistance Program (SHAP)**

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- 1) **Description.** The State Homeless Assistance Program (SHAP) provides state funds to help meet the emergency needs of homeless Oregonians by providing operational support for emergency shelters and the supportive services directly related to them. SHAP funds are available for six program service components: street outreach; emergency shelter operations, shelter resident support services; acquisition, rehabilitation or conversion of a shelter facility; and data collection.
- 2) **Scope of Work.**
  - A) Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including OAR 813.240 as amended and ORS 458.505 to 458,545. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
  - B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with the all program requirements, including but not limited to the following terms and conditions:
    - 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
    - 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements.
    - 3) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee's funding application.
- 3) **Program Specific Reporting.**
  - A) Subgrantee shall, and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.
  - B) Reports submitted shall include:
    - 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
    - 2) Subgrantee shall provide additional reports as needed or requested by OHCS.
- 4) **Performance Measures.**
  - A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals:
    - 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of exit from the program or project funded by the program.
    - 2) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element PE 05**  
**Housing Stabilization Program (HSP)**

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1. **Description.** The Housing Stabilization Program (HSP) provides temporary financial assistance and support services to stabilize housing for low-income eligible families who are homeless or unstably housed and receiving Temporary Assistance for Needy Families (TANF) or who are TANF-eligible. HSP funds are available for four program service components: housing related costs, auxiliary services, case management and data collection pursuant to CFDA 93.558, 45 CFR 260, 263 and 264.50, 42 U.S.C. 7, OAR 813.051 as amended, and ORS 124.060-065, 411.320, 419B.010-015, 430.735-765, 458.505 to 458.545.

2. **Scope of Work.**

A) Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including CFDA 93.558, 45 CFR 260, 263 and 264.50, OAR 813.051 as amended and ORS 124.060-065 458.505 to 458.545. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

- 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements. Subgrantee is strongly encouraged to also align its evaluation process with its local DHS branch assessment process.
- 3) Assure that all household income is counted to determine eligibility for program services. Countable income must be equal to or below the program income limit (at or below 250% of the Federal Poverty Guidelines) in the month of application.
- 4) May utilize program funds to address specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee agency's funding application.
- 5) Assure that each program participant's housing or service plan is jointly developed and developed and coordinated with DHS and program participant.
- 6) Coordination with local DHS branch offices is required to increase partnerships and collaboration, including a referral process with referral tracking and may include sharing of assessment and case plan documents to avoid unnecessary duplication of effort. Collaboration shall be outlined and approved by OHCS in the subgrantee agency's funding application.
- 7) Ensure priority of program services is first given to households receiving TANF.

3. **Program Specific Reporting.**

A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit for OHCS approval all reports as required in this agreement. No reporting deadline extension shall be given by OHCS for reports related to HSP.

B) Reports submitted shall include:

- 1) Referral Tracking and Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20), to include ensuring that request for funds have been submitted for all fiscal year expenses by Jul 30 of each fiscal year.
- 2) Subgrantee shall provide additional reports as needed or requested by OHCS.

#### 4. Maintenance of Effort Requirements.

- A) Subgrantee shall make maintenance of effort contributions in compliance with 45 CFR 92.24, 92.3, 263.2 through 263.6 to supplement the program in an amount that equals subgrantee's total fund allocation, unless otherwise directed by OHCS, and in compliance with the following requirements:
- 1) May obtain maintenance of effort cash contributions not otherwise counted towards a federal cost-sharing or matching requirement from any nonfederal source including state, local and private. State funds exclude funds expended under the Medicaid program, and funds from a prior fiscal year. Contributions must not have been used for any maintenance of effort for a previous program grant.
  - 2) May obtain maintenance of effort value of third-party, in-kind contributions if the expenditure is verifiable and meets applicable requirements in 45 CFR 92.3, 92.24 and 263; AND is not otherwise counted towards a federal cost-sharing or matching requirement. OHCS must approve the methodology used for in-kind valuation prior to including the value on the quarterly report. OHCS approval shall include verifying with DHS that the valuation meets federal TANF maintenance of effort requirements.
  - 3) Required maintenance of effort must be provided and expended within the subgrantee's program grant award year.
  - 4) Maintenance of effort contributions shall meet MOE requirements as defined in the program manual and must be provided to households that meet program eligibility requirements. MOE services must meet one or more of the following TANF purposes:
    - (a) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
    - (b) End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
    - (c) Preventing out-of-wedlock pregnancies; or
    - (d) Encourage the formation and maintenance of two-parent families.
  - 5) Subgrantee shall report maintenance of effort contributions on the Referral Tracking and Quarterly Provider Report.

#### 5. Performance Measures.

- (A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals:
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at the time of exit from the program or project funded by the program.
  - 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from time of program or project exit.
  - 3) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.



**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element 06**  
**HOME Tenant Based Rental Assistance Program (HTBA)**

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1. **Description.** The HOME Tenant Based Assistance (HOME TBA or HTBA) program provides financial assistance to very low-income households to enable them to rent market-rate housing units. The HTBA is federally funded by the U.S. Department of Housing and Urban Development (HUD) and provides rental subsidies, known as "tenant-based rental assistance", to tenants to pay a portion of their housing costs including, rent, utilities and refundable security deposit.

2. **Scope of Work.**

- A) Subgrantee shall and shall cause and require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including CFDA 14.239, 42 USC 12701 et. seq., 24 CFR 92, ORS 456.620, ORS 458.505 and OAR 813.120. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
- B) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
  - 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide services outlined in this agreement.
  - 2) Develop a written tenant selection plan in compliance with program requirements as satisfactory to and approved by the department.
  - 3) Affirmatively market the program to the broadest possible range of potential applicant households including but not limited to those who may have barriers to applying due to language, geography or disability.
  - 4) Require all program participants, as appropriate, to participate in programs or activities that shall increase household self-sufficiency. NOTE: a program participant's refusal to continue with an established self-sufficiency plan cannot be grounds for termination of program participation.

3. **Program Specific Reporting.**

- A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit for OHCS approval all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.
- B) Reports submitted shall include:
  - 1) Reports as required in the program manual.
  - 2) Additional reports as needed or requested by OHCS.

4. **Match Requirement.**

- A) Program matching funds may be required at the discretion of OHCS.
- B) Subgrantee shall report match as directed by OHCS.



**5. Performance Measures.**

- A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goal:
- 1) Increased housing stability as measured by the percentage of households served who maintained permanent housing for at least six months after exiting the program.
  - 2) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element PE 07**  
**Elderly Rental Assistance (ERA)**

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**1. Description.** Elderly Rental Assistance (ERA) provides state funds to defray the cost of rental housing for very low-income households that are homeless or at risk of homelessness and unstably housed and where at least one household member is 58 years or older. ERA funds are available for six program service components: transitional housing; rapid re-housing; homelessness prevention; supportive in-home services; case management and data collection.

**2. Scope of Work.**

- A) Subgrantee shall, and shall cause and shall require by contract, that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including OAR 813-053, as amended, and ORS 458.375; 458.377; and 458.600 to 458.650. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
- B) Subgrantee shall, and shall cause and shall require its subrecipients by contract, to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
  - 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
  - 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and OHCS program requirements.
  - 3) Re-evaluate program participant eligibility and need for program services in compliance with program requirements.
  - 4) May utilize program funds to address the specific needs of various elderly subpopulations. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements and shall be outlined and approved by OHCS in the subgrantee's funding application prior to implementation.

**3. Program Specific Reporting.**

- A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit for OHCS approval all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.
- B) Reports submitted shall include:
  - 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
  - 2) Additional reports as needed or requested by OHCS.

**4. Performance Measures.**

- A) Subgrantee shall, and shall cause and shall require its subrecipients by contract, to administer the program in a manner consistent with program requirements designed to achieve the following performance goal:
  - 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.

- 2) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element 08**  
**Low Income Home Energy Assistance Program (LIHEAP)**

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1. **Description.** The Low-Income Home Energy Assistance Program (LIHEAP) is intended to assist low-income households, particularly those with the lowest incomes who pay a high proportion of household income for home energy, primarily to meet their immediate home energy needs. LIHEAP is federally funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services. Services covered by LIHEAP include bill payment assistance, energy education, case management, weatherization, and other energy-related repairs.
2. **Scope of Work.**
  - A. Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including CFDA 93.568, 2 U.S.C. 8621, ORS 458.505, 45 CFR 96, and OAR 813-200. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this subsection 2A or otherwise under this agreement.
  - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer LIHEAP funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
    - 1) Provide heating and, at subgrantee's discretion, cooling assistance with LIHEAP funds anytime between October 1<sup>st</sup> and September 30<sup>th</sup> as funding allows.
    - 2) At minimum, provide crisis assistance from December 1st through March 15th. If direct service funds are exhausted before March 15th, subgrantee and subrecipients must be available to assist households in crisis by providing information, referral, advocacy, and/or case management services. Subgrantee may choose to offer crisis assistance on a year-round basis.
    - 3) May request approval from OHCS program coordinator to extend timelines for any assistance component based on funding and operational circumstances.
    - 4) Assure that outreach is performed in a manner which ensures all eligible households are made aware of available LIHEAP assistance. This includes but is not limited to placing posters in local and county social service offices, publishing articles in local newspapers, broadcast media announcements, and vendor billing inserts and/or mailings. Subgrantee may also execute interagency agreements with other low-income program offices to perform outreach tasks.
      - a. Households residing in any OHCS multifamily housing portfolio property are considered to be year-round priorities for outreach. These properties have been supported with public funds and the preservation and stabilization of this housing is a priority for the State of Oregon. A current list is available on the OHCS website in both an Excel version or as a PDF.
      - b. OHCS is committed to "Meaningfully engage culturally specific and culturally responsive organizations and their constituents to ensure OHCS policies, practices, systems of accountability and

program awards are designed to advance equity and racial justice and meet the needs of communities of color.”

- 5) Assure applications for the LIHEAP program (every component, including crisis) shall be accepted at sites that are geographically accessible to all households across their service area.
- 6) Ensure that individuals who are “homebound” (physically infirm) shall be provided alternative application methods, including, but not limited to phone, mail and/or home visits.
- 7) May choose to prioritize vulnerable populations (including elderly, disabled and families with young children) for a brief phase at the start of the heating or cooling season. Priority intake periods are intended to allow for additional time and outreach necessary to provide quality services to vulnerable populations, and shall not exclude non-targeted households for more than a short period of time.
- 8) May request approval to target specific services to allowable populations based on community need. Clear policies for application, eligibility and outreach practices must be outlined in the local work plan application and approved by OHCS. Examples of targeted populations include, but are not limited to:
  - a) Households that have not accessed other available energy assistance for the current program year (e.g. fuel funds, utility programs).
  - b) Vulnerable populations as defined by the LIHEAP statute, including seniors, disabled, and families with young children.
  - c) Households who opt to participate in pilot programs including long term case management, energy education, and/or arrearage management programs.
- 9) Subgrantees with Tribal LIHEAP Grantees (tribes who receive LIHEAP funds directly from HHS) in their service area shall make every effort to assure that tribal households do not receive duplicate payments or services. If for any reason an eligible tribal member is unable to access their tribal LIHEAP program (e.g., out of funds, geographically inaccessible, unanticipated hardship) they should be served as any other eligible household. Households affiliated with tribes not receiving LIHEAP funds from HHS should be treated as any other applicant. Any deviation from these policies must be approved by OHCS.
- 10) Assure that households receiving LIHEAP benefits are determined to be eligible based on guidelines provided annually by OHCS.
- 11) Use the benefit matrix and payment guidelines as outlined in the Energy Assistance Operations Manual to determine LIHEAP benefit levels. Any variation from statewide payment levels or types must be approved by OHCS.
- 12) Assure that life- threatening crisis situations are addressed within either 18 hours (if already disconnected) or 48 hours (at risk of disconnection) of application. These timeframes must be documented to ensure compliance with federal requirements and must include comments outlining how the situation was addressed.
- 13) Provide any of the following forms of assistance, or a combination thereof, to resolve energy related emergencies:
  - a) Bill payment assistance
  - b) Heating or cooling system repair or replacement- includes repair, replacement, or conversion of inoperative, non-functional, or unsafe household heating or cooling equipment necessary to alleviate



potential crisis. When considering heating or cooling repair or replacement, considerable effort should be made to supplement LIHEAP funds with other leveraged resources.

- c) Other equipment repair/replacement- includes repair or replacement of energy-related inoperative, non-functional, or unsafe household appliances/equipment necessary to alleviate home energy crisis. When considering equipment repair or replacement, considerable effort should be made to supplement LIHEAP funds with other leveraged resources.
  - d) Other emergency services- including, but not limited to, information, referral, coordination of benefits, advocacy, case management and/or other goods and services necessary to relieve immediate threat to health and safety.
- 14) Notify households regarding the amount of bill payment assistance to be provided. Applicants who apply by mail should receive a notice by mail or may be notified by telephone
  - 15) Assure that LIHEAP Assurance 16 funds are used to reduce household energy burden, improve utility payment patterns, promote energy conservation and improve household self-sufficiency. Subgrantee shall outline policies and procedures for awarding Assurance 16 funding in their local workplan application.
  - 16) Assure that participating home energy supplier sign and comply with vendor contracts and ensure that no home energy supplier is paid with LIHEAP funds without a signed contract. In cases where a home energy supplier is not under contract, households may be paid directly.
  - 17) Authenticate all home energy suppliers paid with LIHEAP funds. A process for authentication (e.g. verifiable tax ID, business documentation) must be outlined and approved in the local work plan application.
  - 18) Pay home energy suppliers within 45 days of committing a LIHEAP benefit, unless otherwise specified in the vendor contract.
  - 19) Assure that applicants understand and sign a vendor release of information in cases where household information must be obtained from a utility/vendor.
  - 20) Does not use LIHEAP funds to pay for any person influencing or attempting to influence an officer or 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. If any funds other than LIHEAP have been paid or shall be paid to any employees for influencing or attempting to influence an officer or employee of a Member of Congress in connection with the awarding of the Federal LIHEAP contract, grant, loan or cooperative agreement, subgrantee shall, and shall cause and shall require its subrecipients by contract to complete and submit Standard- Form-LLL ("Disclosure Form to Report Lobbying") in accordance with its instructions.

### **3. Program Specific Reporting**

A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:

- 1) Ensure that data collection and reporting for LIHEAP funded activities be conducted through the use of OHCS approved OPUS database and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS, ideally at the time of intake.
- 2) Maintain record of leveraged resources as outlined in the LIHEAP State Plan. Subgrantees must use this documentation to complete and submit the LIHEAP Leverage report, satisfactory to OHCS, due annually by October 15th.



- 3) Submit all reports as required in this agreement and outlined in the Energy Assistance Operations Manual as satisfactory to OHCS.
- 4) Provide additional reports as needed or requested by OHCS.
- 5) May request a reporting deadline extension when necessary.

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**2021–2023 MASTER GRANT AGREEMENT  
Exhibit A, Attachment # Program Element 09**

**Low-Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP WX)**

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- 1. Description.** The Department of Oregon Housing and Community Services (OHCS) has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. The Low-Income Home Energy Assistance Program (LIHEAP) is federally funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services and provides a portion of annual funding for weatherization assistance purposes.
- 2. Scope of Work.**
- A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including CFDA 93.568, 42 U.S.C. § 8621-8630. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
- B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer LIHEAP weatherization funds in compliance with the following terms and conditions:
- 1) May use LIHEAP weatherization funds for allowable administrative costs in order to provide the services outlined in this agreement.
  - 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in the LIHEAP and DOE State Plans. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
  - 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
    - a. Households with seniors as defined by those persons over the age of 60.
    - b. Households with disabled members.
    - c. Households with children eighteen years of age and under.
  - 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload services, and energy education.
  - 5) Address Health and Safety issues as required by the LIHEAP and DOE State Plans, including but not limited to:
    - a. Using LIHEAP WX prescribed methods of home analysis to determine existing health and safety needs.
    - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes containing combustion appliances.
    - c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
    - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on 100% of homes weatherized and results used to determine the ASHRAE Standard 62.2 whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes. When providing energy education and/or Baseload services only, ASHRAE Standard 62.2 ventilation standards are optional when no moisture related air quality issues are noted.

- e. Assessment of existing mold and mildew conditions in 100% of homes weatherized with LIHEAP weatherization funds.
- 6) May use LIHEAP Weatherization Funds for the replacement of appliances as funding sources allow and dispose of appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
  - 7) Provide energy education to qualified households through such means that may include, but are not limited to:
    - a. Referral to another department within the subgrantee or subrecipient agency.
    - b. Referral to another agency that provides energy education services.
    - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
  - 8) Maintain a deferral policy that is satisfactory to OHCS. Once a deferral is determined by the subgrantee or subrecipient, a "Letter of Service Denial" or "Delay Due to Site Conditions" shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
    - a. Structurally unsound dwelling.
    - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
    - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
    - d. The presence of raw sewage around or in any part of the dwelling.
    - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
    - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must install weatherization measures.
    - g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
    - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
    - i. An apparent threat of violence or abuse to any program staff member, or any household member, during the weatherization process.
    - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
    - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.
    - l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
    - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion of weatherization measures.
    - n. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
    - o. Home is being advertised as being for sale.
  - 9) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
  - 10) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and

safety training.

- 1) Require at least one (1) staff members to be certified as a REM/Design operator. Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
- 2) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
- 3) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the LIHEAP and DOE State Plans.
- 4) Assure that LIHEAP funds are not used to pay for any person influencing or attempting to influence an officer or 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. If any funds other than LIHEAP have been paid or shall be paid to any employees for influencing or attempting to influence an officer or employee of a Member of Congress in connection with the awarding of the Federal LIHEAP contract, grant, loan or cooperative agreement, subgrantees shall, and shall cause and shall require its subrecipients by contract to complete and submitting Standard- Form-LLL ("Disclosure Form to Report Lobbying") in accordance with its instructions.
- 5) Ensure every LIHEAP weatherization unit reported as a "completed unit" receives a final inspection aligning with and meeting the quality specifications outlined in the standard work specifications (SWS) aligned field guide.
- 6) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must be consistent with the quality specifications outlined in the SWS aligned field guide.

### **3. Program Specific Reporting**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
  - 1) Ensure that data collection and reporting for LIHEAP weatherization-funded activities be conducted through the use of OHCS approved OPUS database or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
  - 2) Submit all reports as required in this agreement including but not limited to the "Weatherization Quarterly Program Report" which is due quarterly by the 20th of January, April, July, and October to OHCS.
  - 3) Provide additional reports as needed and requested by OHCS.
  - 4) May request a reporting deadline extension when necessary.

### **4. Performance Measures**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:

- 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
- 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element 10**  
**Oregon Energy Assistance Program (OEAP)**

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1. **Description.** The Oregon Energy Assistance Program (OEAP) provides electric bill payment assistance to low-income households who have an account with Portland General Electric or Pacific Power utility vendors.
2. **Scope of Work.**
  - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local workplan application as approved by OHCS and supplemented herein, together with applicable legal requirements including ORS 757.612 and OAR 813-202. The approved workplan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
  - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer OEAP funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
    - 1) Assure that outreach is performed in a manner which ensures all eligible households are made aware of available OEAP assistance. This includes but is not limited to placing posters in local and county social service offices, publishing articles in local newspapers, broadcast media announcements, and vendor billing inserts and/or mailings. Subgrantees may also execute interagency agreements with other low-income program offices to perform outreach tasks.
      - a) Households residing in any OHCS multifamily housing portfolio property are considered to be year-round priorities for outreach. These properties have been supported with public funds and the preservation and stabilization of this housing is a priority for the State of Oregon. A current list is available on the OHCS website in both an Excel version or as a PDF.
      - b) OHCS is committed to “Meaningfully engage culturally specific and culturally responsive organizations and their constituents to ensure OHCS policies, practices, systems of accountability and program awards are designed to advance equity and racial justice and meet the needs of communities of color.”
    - 2) Assure applications for the OEAP program (every component, including crisis) shall be accepted at sites that are geographically accessible to all eligible households across their service area.
    - 3) Assure that individuals who are “homebound” (physically infirm) shall be provided alternative application methods, including, but not limited to phone, mail and/or home visits.
    - 4) May request approval to target specific services to allowable populations based on community need. Clear policies for client application, eligibility and outreach practices must be outlined in the local workplan application and approved by OHCS. Examples of targeted populations include, but are not limited to:
      - a) Households that have not accessed other available energy assistance for the current program year (e.g. fuel funds, utility programs).
      - b) Vulnerable Populations as defined by the LIHEAP program statute, including seniors, disabled, and families with young children.

- c) Households who opt to participate in pilot programs including long term case management, energy education, and/or arrearage management programs.
- 5) Use the statewide benefit matrix and payment guidelines as outlined in the Energy Assistance Operations Manual to determine OEAP benefit levels. Any variation from statewide payment levels or types must be approved by OHCS.
- 6) Assure that life- threatening crisis situations are addressed within either 18 hours (if already disconnected) or 48 hours (at risk of disconnection) of application. These timeframes must be documented and must include comments outlining how the situation was addressed.
- 7) Notify households regarding the amount of bill payment assistance to be provided. Applicants who apply by mail should receive a notice by mail or may be notified by telephone.
- 8) Assure that participating home energy suppliers sign and comply with vendor contracts and ensure that no home energy supplier is paid with OEAP funds without a signed contract.
- 9) Pay home energy suppliers within 45 days of committing an OEAP benefit, unless otherwise specified in the vendor contract.
- 10) Assure that applicants understand and sign a vendor release of information in cases where household information must be obtained from a utility/vendor.

### **3. Program Specific Reporting**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
  - 1) Ensure that data collection and reporting for OEAP funded activities be conducted through the use of OHCS approved OPUS or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS, ideally at the time of intake.
  - 2) Submit all reports as required in this agreement and outlined in the Energy Assistance Operations Manual as satisfactory to OHCS.
  - 3) Provide additional reports as needed and requested by OHCS.
  - 4) May request a reporting deadline extension when necessary.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Attachment # Program Element 11**  
**Bonneville Power Administration (BPA) Weatherization Assistance Program**

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1. **Description.** The Oregon Housing and Community Services Department has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. The Bonneville Power Administration (BPA) created a low-income weatherization program available to households (owners and renters) who heat with electricity from a public utility.
2. **Scope of Work.**
  - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including 42 U.S.C. 6851 – 6872 and 42 U.S.C. 7101. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
  - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer BPA funds in compliance with the following terms and conditions:
    - 1) May use funds for allowable administrative costs in order to provide the services outlined in this agreement.
    - 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in the DOE State Plan. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
    - 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
      - a. Households with seniors as defined by those persons over the age of 60,
      - b. Households with disabled members.
      - c. Households with children eighteen years of age and under.
      - d. High residential energy users.
      - e. Households with a high energy burden.Local service providers may create a separate BPA waiting list rather than require the weatherization applicant in BPA service territory to remain on any other waiting list.
    - 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload services, and energy education. Subgrantee and subrecipients may install 100% of cost-effective measures as determined through the use of an OHCS approved computerized auditing tool.
    - 5) All weatherization services and baseload services, except for the purposes of Health and Safety, must have a saving to investment ratio (SIR) of 1.0 or greater as determined through the use of an OHCS- approved auditing tool.
    - 6) Maintain a Health and Safety average not to exceed thirty percent (30%) of the total BPA job cost on

average.

- 7) Address Health and Safety issues as required by the DOE State Plan, including but not limited to:
  - a. Using weatherization assistance program prescribed methods of home analysis to determine existing Health and Safety needs.
  - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes containing combustion appliances.
  - c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
  - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on one hundred percent (100%) of homes weatherized and results used to determine the ASHRAE
  - e. 62.2 whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes. When providing energy education and/or Baseload services only, ASHRAE 62.2 ventilation standards are optional when no moisture related air quality issues are noted.
  - f. Assessment of existing mold and mildew conditions in one hundred percent (100%) of homes weatherized with BPA funds.
- 8) Maintain a repair average not to exceed thirty percent (30%) of the total BPA job cost on average.
- 9) May use weatherization funds for the replacement of inefficient appliances as funding sources allow and dispose of appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
- 10) Provide energy education to qualified households through such means that may include, but are not limited to:
  - a. Referral to another department within the subgrantee or subrecipient agency.
  - b. Referral to another agency that provides energy education services.
  - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
- 11) Maintain a Deferral policy that is satisfactory to OHCS. Once a Deferral is determined by the subgrantee or subrecipient, a "Letter of Service Denial" or "Delay Due to Site Conditions" shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
  - a. Structurally unsound dwelling.
  - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
  - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
  - d. The presence of raw sewage around or in any part of the dwelling.
  - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
  - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must



- install weatherization measures.
- g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
  - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
  - i. An apparent threat of violence of abuse to any program staff member, or any household member, during the weatherization process.
  - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
  - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.
  - l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
  - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion of weatherization measures.
  - n. Proposed weatherization conservation measures shall result in minimal energy savings and the cost of these measures have a saving to investment ratio (SIR) of less than one (1).
  - o. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
  - p. Home is being advertised as being for sale.
- 12) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
  - 13) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and safety training.
  - 14) Require at least one (1) staff members to be certified as a REM/Design operator.
  - 15) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
  - 16) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the DOE State Plan.
  - 17) Ensure every BPA unit reported as a "completed unit" receives a final inspection aligning with the quality specifications outlined by OHCS ensuring that all work meets the minimum specifications outlined in the standard work specifications (SWS) aligned field guide in accordance with 10 CFR 440.
  - 18) Ensure every BPA unit reported as a "completed unit" has a form in the client file that certifies all of the work had a final inspection and that the work met the required standards. This form must be signed by a certified quality control inspector.
  - 19) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be



referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must be consistent with the quality specifications outlined in the SWS aligned field guide.

### **3. Program Specific Reporting**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
  - 1) Ensure that data collection and reporting for BPA funded activities be conducted through the use of OHCS approved OPUS or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
  - 2) Submit all reports as required in this agreement including but not limited to the "Weatherization Quarterly Program Report" which is due quarterly by the 20th of January, April, July, and October to OHCS.
  - 3) Provide additional reports as needed and requested by OHCS.
  - 4) May request a reporting deadline extension when necessary.

### **4. Performance Measures**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:
  - 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
  - 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Attachment # Program Element 12**  
**Department of Energy (DOE) Weatherization Assistance Program**

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1. **Description.** The Department of Oregon Housing and Community Services has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. The U.S. Department of Energy (DOE) makes funds available to Oregon for the Weatherization Assistance Program (WAP).
2. **Scope of Work.**
  - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including CFDA 81.042 – 42 U.S.C. 6851 – 6872 and 42 U.S.C. 7101. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
  - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer DOE WAP funds in compliance with the following terms and conditions:
    - 1) May use funds for allowable administrative costs in order to provide the services outlined in this agreement.
    - 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in the DOE State Plan. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
    - 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
      - a. Households with seniors as defined by those persons over the age of 60.
      - b. Households with disabled members.
      - c. Households with children eighteen years of age and under.
      - d. High residential energy users.
      - e. Households with a high energy burden.
    - 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload services, and energy education not to exceed the determined average designated by the current US DOE State Plan.
    - 5) All weatherization services and baseload services, except for the purposes of Health and Safety, must have a savings to investment ratio (SIR) of 1.0 or greater as determined through the use of an OHCS- approved auditing tool.
    - 6) Maintain a Health and Safety average not to exceed fifteen percent (15%) of the subgrantee total program allocation. Subgrantee shall, and shall cause and shall require its subrecipients by contract to address Health and Safety issues as required by the DOE State Plan, including but not limited to:
      - a. Using WAP prescribed methods of home analysis to determine existing Health and Safety needs.
      - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes containing combustion appliances.

- c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
  - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on one-hundred percent (100%) of homes weatherized and results used to determine the ASHRAE whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes.
  - e. Assessment of existing mold and mildew conditions in one hundred percent (100%) of homes weatherized with DOE WAP funds.
- 7) May use weatherization funds for the replacement of inefficient appliances as funding sources allow and dispose of appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
- 8) Provide energy education to qualified households through such means that may include, but are not limited to:
- a. Referral to another department within the subgrantee or subrecipient agency.
  - b. Referral to another agency that provides energy education services.
  - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
- 9) Maintain a Deferral policy that is satisfactory to OHCS. Once a Deferral is determined by the subgrantee or subrecipient, a "Letter of Service Denial" or "Delay Due to Site Conditions" shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
- a. Structurally unsound dwelling.
  - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
  - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
  - d. The presence of raw sewage around or in any part of the dwelling.
  - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
  - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must install weatherization measures.
  - g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
  - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
  - i. An apparent threat of violence or abuse to any program staff member, or any household member, during the weatherization process.
  - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
  - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.
  - l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
  - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion

of weatherization measures.

- n. Proposed weatherization conservation measures shall result in minimal energy savings and the cost of these measures have a savings to investment ratio (SIR) of less than one (1).
  - o. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
  - p. Home is being advertised as being for sale.
- 10) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
  - 11) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and safety training.
  - 12) Require at least one (1) staff members to be certified as a REM/Design operator.
  - 13) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
  - 14) Assure that data collection and reporting for DOE WAP funded activities be conducted through the use of the OHCS OPUS database and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS.
  - 15) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the DOE State Plan.
  - 16) Ensure every DOE WAP unit reported as a "completed unit" receives a final inspection aligning with the quality specifications outlined by OHCS ensuring that all work meets the minimum specifications outlined in the standard work specifications (SWS) aligned field guide in accordance with 10 CFR 440.
  - 17) Ensure every DOE WAP unit reported as a "completed unit" has a form in the client file that certifies all of the work had a final inspection and that the work met the required standards. This form must be signed by a certified quality control inspector.
  - 18) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must meet the quality specifications outlined in the SWS aligned field guide.

### **3. Program Specific Reporting**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
  - 1) Ensure that data collection and reporting for DOE WAP funded activities be conducted through the use of OHCS approved OPUS or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
  - 2) Submit all reports as required in this agreement including but not limited to the "Weatherization Quarterly

Program Report” which is due quarterly by the 20th of January, April, July, and October to OHCS.

- 3) Provide additional reports as needed and requested by OHCS.
- 4) Request a reporting deadline extension when necessary.

**4. Performance Measures**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:
  - 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
  - 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Attachment #Program Element 13**  
**Energy Conservation Helping Oregonians (ECHO) Weatherization Assistance Program**

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1. **Description.** The Oregon Housing and Community Services Department has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. Energy Conservation Helping Oregonians (ECHO) is a weatherization program funded by ratepayers of Portland General Electric and Pacific Power. Only low-income households (owners and renters) that are PGE or Pacific Power customers are eligible for the program.
2. **Scope of Work.**
  - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including ORS 757.612 and OAR 813.205. The approved workplan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
  - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer ECHO funds in compliance with the following terms and conditions:
    - 1) May use funds for allowable administrative costs in order to provide the services outlined in this agreement.
    - 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in ECHO guidelines. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
    - 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
      - a. Households with seniors as defined by those persons over the age of 60.
      - b. Households with disabled members.
      - c. Households with children eighteen years of age and under.
    - 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload, and energy education. Subgrantee and subrecipients may install 100% of cost-effective measures as determined through the use of an OHCS approved computerized auditing tool.
    - 5) Weatherization services and baseload, except for the purposes of Health and Safety, must have a grouped savings to investment ratio (SIR) of 1.0 or greater as determined through the use of an OHCS-approved auditing tool.
    - 6) Maintain a Health and Safety average not to exceed twenty percent (20%) of the subgrantee total program allocation and address Health and Safety issues as required by ECHO guidelines, including but not limited to:
      - a. Using WAP prescribed methods of home analysis to determine existing Health and Safety needs.
      - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes.

- c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
  - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on one-hundred percent (100%) of homes weatherized and results used to determine the ASHRAE whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes. When providing energy education and/or Baseload services only, ASHRAE Standard 62.2 ventilation standards are optional when no moisture related air quality issues are noted.
  - e. Assessment of existing mold and mildew conditions in one hundred percent (100%) of homes weatherized with ECHO funds.
- 7) May use weatherization funds for the replacement of inefficient appliances as funding sources allow and dispose appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
  - 8) Provide energy education to qualified households through such means that may include, but are not limited to:
    - a. Referral to another department within the subgrantee or subrecipient agency.
    - b. Referral to another agency that provides energy education services.
    - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
  - 9) Maintain a Deferral policy that is satisfactory to OHCS. Once a Deferral is determined by the subgrantee or subrecipient, a "Letter of Service Denial" or "Delay Due to Site Conditions" shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
    - a. Structurally unsound dwelling.
    - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
    - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
    - d. The presence of raw sewage around or in any part of the dwelling.
    - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
    - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must install weatherization measures.
    - g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
    - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
    - i. An apparent threat of violence or abuse to any program staff member, or any household member, during the weatherization process.
    - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
    - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.

- l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
  - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion of weatherization measures.
  - n. Proposed weatherization conservation measures will result in minimal energy savings and the cost of these measures have a savings to investment ration (SIR) of less than one (1).
  - o. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
  - p. Home is being advertised as being for sale.
- 10) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
  - 11) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and safety training.
  - 12) Require at least one (1) staff members to be certified as a REM/Design operator. This requirement may be waived at the discretion of the OHCS program coordinator. A waiver shall only be in effect for the length of this contract.
  - 13) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
  - 14) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the ECHO guidelines.
  - 15) Ensure every ECHO unit reported as a "completed unit" receives a final inspection aligning with and meeting the quality specifications outlined in the standard work specifications (SWS) aligned field guide.
  - 16) Ensure every ECHO unit reported as a "completed unit" has a form in the client file that certifies all of the work had a final inspection and that the work met the required standards.
  - 17) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must be consistent with the quality specifications outlined in the SWS aligned field guide.

### **3. Program Specific Reporting**

- A Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
  - 1) Ensure that data collection and reporting for ECHO funded activities be conducted through the use of the OHCS approved OPUS database or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
  - 2) Submit all reports as required in this agreement including but not limited to the "Weatherization Quarterly Program Report" which is due quarterly by the 20th of January, April, July, and October to OHCS.

- 3) Provide additional reports as needed and requested by OHCS.
- 4) May request a reporting deadline extension when necessary.

**4. Performance Measures**

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:
- 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
  - 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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**2019 – 2021 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element PE 14 CRF RENTAL RELIEF PROGRAM**

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1. **Description.** Coronavirus Relief Fund (CRF) Rental Relief Program provides federal funds from the U.S. Department of the Treasury, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 to the Oregon Housing and Community Services for rental assistance during the coronavirus (COVID-19) pandemic. The CARES Act requires payment from the CRF be used to cover expenses that 1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; 2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and 3) were incurred during the period that begins on March 1, 2020 and ends on December 31, 2021.
  
2. **Scope of Work.**
  - A) Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement together with applicable program requirements provided in ORS 458.650. The remaining provisions of this Section 2 are supplemental to and do not limit the obligations of Subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this Agreement.
  
  - B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with the program requirements, including but not limited to the following terms and conditions:
    1. Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care, developed coordinated entry requirements and department program requirements.
  
    2. Assure that program services are available to low-income households, including but not limited to, veterans, persons more than 65 years of age, disabled persons, farm workers and Native Americans, who meet program eligibility requirements. Populations not defined in Exhibit A, Definitions, shall be defined by Subgrantee.
  
    3. Conduct eligibility assessment for households who have lost employment or income related to COVID-19, been directly impacted by business closure related to COVID-19, diagnosed or exposed to COVID-19, or displaced or unstably housed as a result of public health measures taken to reduce the spread of COVID-19.
  
    4. Utilization of program funds to address the specific needs of various homeless subpopulations is allowable. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements.
  
3. **Program Specific Reporting.**
  - A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all HMIS reports as required in this Agreement. Subgrantee shall and shall cause and shall require its subrecipients to assure that data collection and reporting, which includes personally identifiable information, be conducted through the use of OHCS-approved HMIS. Subgrantee may request a reporting deadline extension when necessary. An extension request shall be approved by OHCS.



B) Reports submitted shall include:

- a. Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (October 20, January 20, April 20, July 20), to include ensuring that requests for funds have been submitted for all fiscal year expenses by July 30 of each fiscal year. Quarterly reports include personally identifiable information and other data collected through HMIS.
- b. Additional reports as needed or requested by OHCS.

**4. Performance Measures.**

- A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goal:
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.

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**2019-2021 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element PE 15 Energy Assistance Stability (EAS) Program -**  
**Coronavirus Relief Fund (CRF)**

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1. **Description.** Coronavirus Relief Fund (CRF) Energy Assistance Stability (EAS) Program is intended to be responsive to the realities and challenges associated with COVID-19 by providing financial relief to vulnerable households for preventing, preparing for, or responding to COVID-19. These federal funds are provided from the U.S. Department of the Treasury, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 to the Oregon Housing and Community Services for rental assistance during the coronavirus (COVID-19) pandemic. The CARES Act requires payment from the CRF be used to cover expenses that 1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; 2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and 3) were incurred during the period that begins on March 1, 2020 and ends on December 31, 2021.
2. **Scope of Work.**
  - A. Subgrantee shall, and shall cause and shall require by contract that its sub-recipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this Agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the United States Department of the Treasury guidance attached hereto as Attachment 1. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its sub-recipients arising under this subsection 2A or otherwise under this agreement.
  - B. Subgrantee shall, and shall cause and shall require its sub-recipients by contract to administer EAS funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
    - 1) Provide bill payment assistance with EAS funds anytime between July 1, 2020 and December 31, 2020 as funding allows.
    - 2) Assure that outreach is performed in a manner which ensures all eligible households are made aware of available EAS assistance. This includes, but is not limited to, placing posters in local and county social service offices, publishing articles in local newspapers, broadcast media announcements, and vendor billing inserts and/or mailings. Subgrantee may also execute interagency agreements with other low-income program offices to perform outreach tasks.
    - 3) Assure that applications for the EAS program are accepted at sites that are geographically accessible to all households across their service area.
    - 4) Ensure that individuals who are “homebound” (physically infirm) shall be provided alternative application methods, including, but not limited to phone, mail and/or home visits.
    - 5) If for any reason an eligible tribal member is unable to access their tribal EAS program (e.g., out of funds, geographically inaccessible, unanticipated hardship) they should be served as any other eligible household. Households affiliated with tribes not receiving EAS funds should be treated as any other applicant. Any deviation from these policies must be approved by OHCS.
    - 6) Assure that households receiving EAS benefits are determined to be eligible based on guidelines

provided by OHCS.

- 7) Use the payment guidelines as outlined in the Energy Assistance Operations Manual, along with supplemental guidelines, to determine EAS benefit levels. Any variation from statewide payment levels must be approved by OHCS.
- 8) Provide any of the following forms of assistance, or a combination thereof, to resolve energy related emergencies:
  - a. Bill payment assistance
  - b. Other emergency services- including, but not limited to, information, referral, coordination of benefits, advocacy, case management and/or other goods and services necessary to relieve immediate threat to health and safety.
- 9) Notify households regarding the amount of bill payment assistance to be provided. Applicants who apply by mail should receive a notice by mail or may be notified by telephone
- 10) Assure that participating home energy suppliers sign and comply with vendor contracts and ensure that no home energy supplier is paid with EAS funds without a signed contract. In cases where a home energy supplier is not under contract, households may be paid directly.
- 11) Authenticate all home energy suppliers paid with EAS funds. A process for authentication (e.g. verifiable tax ID, business documentation) must be outlined and approved in the local work plan application.
- 12) Pay home energy suppliers within 45 days of committing an EAS benefit, unless otherwise specified in the vendor contract.
- 13) Assure that applicants understand and sign a vendor release of information in cases where household information must be obtained from a utility/vendor.

### **3. Program Specific Reporting**

- A. Subgrantee shall, and shall cause and shall require its sub-recipients by contract to, comply with the following program specific reporting requirements:
  - 1) Ensure that data collection and reporting for EAS funded activities be conducted through the use of OHCS approved OPUS database and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS.
  - 2) Submit all reports as required in this agreement and outlined in the Energy Assistance Operations Manual as satisfactory to OHCS. Subgrantee may request a reporting deadline extension when necessary.
  - 3) Provide additional reports as needed or requested by OHCS.

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**2021-2023 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element PE 16**  
**Emergency Solutions Grant Program – COVID-19 (ESG-CV)**

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**1. Description.** The Emergency Solutions Grant program - Coronavirus (ESG-CV) provides federal funds, as authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, to support local programs to assist very low-income individuals and families who have been affected by the COVID-19 pandemic, either through illness or from lost or reduced income. Households may be homeless, at risk of homelessness, or experiencing an economic crisis which could lead to homelessness in the future. ESG-CV funds may be used for five program service components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS pursuant to 24 CFR Part 5, subpart F, Part 91 and Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545.

**2. Scope of Work.**

A) Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local Implementation Report as approved by OHCS, and supplemented herein, together with applicable program requirements including HEARTH Act, 24 CFR Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545. The approved Implementation Report is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

- 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Conduct an applicant evaluation to determine eligibility for program services in alignment with OHCS and HUD requirements.
- 3) Re-evaluate program participant eligibility and need for program services for homelessness prevention and rapid re-housing in compliance with program requirements.
- 4) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee's Implementation Report.
- 5) Comply with Conflict of Interest standards for both individuals and organizations as identified in 24 CFR 576.404(a), 24 CFR 85.36, and 24 CFR 84.42.

**3. Program Specific Reporting.**

A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.

B) Reports submitted shall include:

- 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
- 2) Additional reports as needed or requested by OHCS.

**4. Performance Measures.**

- A) Subgrantee shall and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals.
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at the time of their exit from the program or project funded by the program. Preliminary statewide target is 30%.
  - 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from time of program or project exit. Statewide target is 80%.
  - 3) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved Implementation Report.

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Draft

Approval of Previous Business Meeting

Minutes:

November 4, 2021

## **BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES**

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

<https://www.clackamas.us/meetings/bcc/business>

**Thursday, November 4, 2021 – 10:00 AM**

**Virtual Meeting via Zoom and in Person**

**PRESENT:** Chair Tootie Smith  
Commissioner Martha Schrader  
Commissioner Mark Shull  
Commissioner Paul Savas  
Commissioner Sonya Fischer

### **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **COVID-19 Updates**

#### **I. PUBLIC HEARINGS** <https://www.clackamas.us/meetings/bcc/business>

- A. Approval of the Sale and Transfer of Clackamas County surplus property, Tax Lot 21E14CA 01600, Parcel no, 05025396 to the City of West Linn.

Opened Public Communication  
No Public Comment  
Closed Public Communication

Commissioner Shull: I move we approve the Sale and Transfer of Clackamas County surplus property, Tax Lot 21E14CA 01600, Parcel no, 05025396 to the City of West Linn.

Commissioner Fischer: Second  
Clerk Bork called the Poll  
Commissioner Fischer: Aye.  
Commissioner Shull: Aye  
Commissioner Schrader: Aye  
Commissioner Savas: Aye  
Chair Smith: Aye.–the motion carries 5-0

#### **II. CONSENT AGENDA** <https://www.clackamas.us/meetings/bcc/business>

##### **A. Elected Officials**

1. Approval of Previous Business Meeting Minutes – BCC
2. Approval of an Intergovernmental Agreement with the Oregon Department of Forestry (ODF) for law enforcement services in the Santiam State Forest. Services will initially be funded through County General Funds and later reimbursed by Oregon Department of Forestry \$30,000 per fiscal year for five years for a total of \$150,000. - CCSO
3. Approval of a Resolution delegating limited authority to the Sheriff Angie Brandenburg to accept a grant award through the United States Department of Justice Office of Community Oriented Policing Services online portal. Total Federal award amount is \$250,000 funded through the US Department of Justice. No County General Funds are involved. - CCSO
4. Approval of application for Grant Agreement from the Oregon Department of Justice for Child Abuse Multidisciplinary Intervention (CAMI) Program services. Total Grant Award is \$1,040,851.29, funded through the State of Oregon. These are pass through funds. No County General Funds are involved. – *District Attorney*

**B. Health, Housing and Human Services**

1. Approval of an Intergovernmental Agreement with the Oregon Department of Human Services (ODHS) for licenses and access to the Homeless Management Information System (HMIS). Agreement is to allow the County to bill ODHS \$7,596, actual costs of licenses. No County General Funds are involved. – *Community Development*
2. Approval of a Sub-recipient Agreement with Northwest Housing Alternatives to Provide Homeless Shelter Services. Funded with a HUD Emergency Solutions Grant of \$58,746. No County General Funds are involved. – *Community Development*
3. Approval of a Cooperation Agreement with Clackamas Service Center to fund \$650,000 of the \$950,000 estimated construction expenses for Clackamas Services Center Expansion project. Funding through Community Development Block Grant. No County General Funds are involved. – *Community Development*
4. Approval of an Intergovernmental Agreement with the State of Oregon, Department of Human Services, for the Provision of Older American Act and Oregon Project Independence Services to Clackamas County Residents age 60 and over. Maximum agreement amount is \$5,452,881. Funded through Federal Older American Act and State General Funds with a County General Fund match of \$298,750. – *Social Services*
5. Approval of a Contract with SRS LLC for On-Call Hotel Rooms for Temporary Housing Participants. Maximum contact value of \$582,000 funded with Metro Supported Housing and Service Funds. No County General Funds are involved. - *Social Services*
6. Approval of Agreement #18944 with Ride Connection, Inc. to Provide \$83,348 in HB 2017 funding for Dedicated Dialysis Rides provided by Social Services, Transportation Reaching People. Funded through Statewide Transportation Improvement Funds. No County General Funds are involved. – *Social Services*
7. Approval of Agreement #18945 with Ride Connection, Inc. to Provide \$85,349 in HB 2017 Funding for Dedicated Medical Rides provided by Social Services and Transportation Reaching People. Funded through Statewide Transportation Improvement Funds. No County General Funds are involved. – *Social Services*
8. Approval of Intergovernmental Agreement #171559-0 with The State of Oregon, Department of Human Services for COVID pandemic response services for Clackamas County residents age 60 and over. Maximum agreement amount is \$55,842, funded by Federal Older American Act funds. No County General Funds are involved. – *Social Services*
9. Approval of a Local Subrecipient Grant Agreement Amendment #3 with Todos Juntos for continuation of Kindergarten Partnership Innovation Services in Clackamas County. This Amendment increases the total by \$225,711 for a new maximum value of \$512,052, funded through State of Oregon Kindergarten Innovation Partnership Grant. No County Funds are involved – *CFCC*

**C. Community Corrections**

1. Approval of Intergovernmental Agreement #6188 between the State of Oregon, Department of Corrections and Clackamas County Community Corrections. This agreement provides \$663,456 in funding for Community Corrections Substance Abuse Programs for the 2021-2023 biennium. Funded through State of Oregon, Measure 57 Supplemental Funds. No County General Funds are involved.
2. Approval of an Intergovernmental Grant Agreement with Oregon Health & Science University for Community Corrections to build a client database for tracking clients involved with the State funded Improved People's Access to Community-based Treatment, Support, and Services (IMPACTS) Research Partner. Total funding received will be \$23,368 from the State of Oregon Criminal Justice Commission. No County General Funds are involved.

3. Approval of Sub-Recipient Agreement #20-024 Amendment #1 between Clackamas County Community Corrections and Sub-Recipient Oregon Health Science University for System-Level Diversion Strategies. This amendment extends the agreement through September 30, 2022. Funded through US Department of Justice. No County General Funds are involved.
4. Approval of Intergovernmental Agreement #6153 and Biennial Plan between the State of Oregon Department of Corrections and Clackamas County Community Corrections. IGA provides \$16,119,747 Grant-in-Aid funding for Community Corrections program for the 2021-2023 biennium.

**D. Transportation and Development**

1. Approval of Amendment #1 for Local Agency Agreement #32726-1 with the State of Oregon, acting by and through its Department of Transportation for Systemic Signals and Illumination Design. Total grant amount is \$252,900 with matching Road funds equal to \$27,455.62. No County General Funds are involved.
2. Approval of Amendment #2 with Kittelson & Associates, Inc for Design Services for South Ivy Street pedestrian intersection improvements. This amendment adds \$372,369.54 for a total contract value of \$912,225.33. Funded through County Road Fund, State Funded Local Project Funds and the City of Canby. No County General Funds are involved.

**E. Finance**

1. Approval of a Contract with Matt C. Westbrook, LLC for Grant Compliance and Subrecipient Monitoring Services. Total contract value not to exceed \$250,000 through November 30, 2023. Funded by cost allocations through the Finance Department budget, some of which are General Funds.

Commissioner Schrader: I move we approve the Consent Agenda.

Commissioner Shull: Second

Clerk Bork called the Poll

Commissioner Schrader: Aye

Commissioner Shull: Aye

Commissioner Fischer: Aye

Commissioner Savas: Aye

Chair Smith: Aye.–the motion carries 5-0

***Recess as the Board of County Commissioners and convene as the Development Agency.***

**III. DEVELOPMENT AGENCY CONSENT AGENDA** <https://www.clackamas.us/meetings/bcc/business>

- A.** Release and Termination of a Post-Closing Escrow and Development Agreement between the Development Agency and Clackamas Corporate Park, LLC. No County General Funds are involved.

Commissioner Shull: I move for approval the Development Agency consent agenda.

Commissioner Schrader: Second

Clerk Bork called the Poll

Commissioner Savas: Aye

Commissioner Fischer: Aye

Commissioner Schrader: Aye

Commissioner Shull: Aye

Chair Smith: Aye.–the motion carries 5-0

***Adjourn as the Development Agency and reconvene as the Board of County Commissioners.***

**IV. PUBLIC COMMUNICATION** <https://www.clackamas.us/meetings/bcc/business>

Open Public Comment

General Public Comment in Person:

1. Jacqueline Arn - Beavercreek
2. Les Poole - Damascus

General Public Comment Zoom:

1. Cris Waller – Jennings Lodge
2. Angela Nylund – Boring
3. Bill Wehr - Damascus
4. Christine Kennedy – Lake Oswego
5. Ana Bautista - Woodburn

Closed Public Hearing

**V. COUNTY ADMINISTRATOR UPDATE** <https://www.clackamas.us/meetings/bcc/business>

**VI. COMMISSIONERS COMMUNICATION** <https://www.clackamas.us/meetings/bcc/business>

***Adjourned 11:12 AM***



Draft

Approval of Previous Business Meeting

Minutes:

November 10, 2021

## **BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES**

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

<https://www.clackamas.us/meetings/bcc/business>

**Thursday, November 10, 2021 – 6:00 PM**

**Virtual Meeting via Zoom and in Person**

**PRESENT:** Chair Tootie Smith  
Commissioner Martha Schrader  
Commissioner Mark Shull  
Commissioner Sonya Fischer

**EXCUSED:** Commissioner Paul Savas

### **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **COVID-19 Updates**

#### **I. PRESENTATION** <https://www.clackamas.us/meetings/bcc/business>

A. Veteran's Day Presentation (Erika Silver, H3S)

#### **II. CONSENT AGENDA** <https://www.clackamas.us/meetings/bcc/business>

##### **A. Elected Officials**

1. Approval of Previous Business Meeting Minutes – BCC
2. ~~Approval of 2021 House Bill 5006 Resolution – Assessment and Taxation~~

##### **B. Health, Housing and Human Services**

1. Approval of Amendment #02 to a Subrecipient Agreement with Lifeworks NW for Intensive Case Management Services. Amendment adds \$44,301.60 to the Agreement, increasing the maximum grant value to \$354,412.80. Funding through State of Oregon, Community Mental Health Program funds. No County General Funds are involved – Behavioral Health
2. Approval of a Local Subrecipient Grant Agreement Amendment #3 with Metropolitan Family Services for continuation of Kindergarten Partnership Innovation Services in Clackamas County. This Amendment adds \$138,405.90 for a new maximum value of \$307,123.90 and extends the end date to June 30, 2023. Funding through State of Oregon, Early Learning Division. No County Funds are involved – CFCC

##### **C. Community Corrections**

1. Approval of Local Agency Agreement #34887 with the State of Oregon, acting by and through its Department of Transportation delivered Federal Project for East Systemic Signals and Illumination Construction on behalf of Clackamas County. Total project is \$3,717,370, with \$3,647,370 in Federal Funds and \$70,000 Road Fund match. No County General Funds are involved.

Commissioner Shull: I move for approval of the Consent Agenda.

Commissioner Schrader: Second

Clerk Bays called the Poll

Commissioner Fischer: Aye

Commissioner Shull: Aye

Commissioner Schrader: Aye

Chair Smith: Aye.–the motion carries 4-0

***Recess as the Board of County Commissioners and convene as the Development Agency.***

**III. DEVELOPMENT AGENCY CONSENT AGENDA** <https://www.clackamas.us/meetings/bcc/business>

1. Release and Termination of a Post-Closing Escrow and Development Agreement between the Development Agency and Clackamas Corporate Park, LLC. No County General Funds are involved.

Commissioner Shull: I move for approval of the Development Agency consent agenda.

Commissioner Schrader: Second

Clerk Bays called the Poll

Commissioner Shull: Aye

Commissioner Fischer: Aye

Commissioner Schrader: Aye

Chair Smith: Aye.–the motion carries 4-0

***Adjourn as the Development Agency and convene as the Water Environment Services.***

**IV. WATER ENVIRONMENT SERVICES CONSENT AGENDA**

<https://www.clackamas.us/meetings/bcc/business>

1. Approval of a Contract with Lee Contractors for the Bolton and River Street Force Main Combination Air Release Valve Vault 4 and Intertie Valves Replacement Project. Contract value is \$199,900 using WES Capital Improvement funds. No County General Funds are involved.
2. Approval of the Cooperative Improvement (Utility) Agreement between Water Environment Services and Oregon Department of Transportation Related to the I-205: I-5 to OR213 Project. Fiscal Impact is \$9,257,002 through WES Capital Improvement funds. No County General Funds are involved.

Commissioner Shull: I move for approval of the Water Environment Services consent agenda.

Commissioner Schrader: Second

Clerk Bays called the Poll

Commissioner Schrader: Aye

Commissioner Fischer: Aye

Commissioner Shull: Aye

Chair Smith: Aye.–the motion carries 4-0

***Recess as the Water Environment Services and reconvene as the Board of County Commissioners.***

**V. PUBLIC COMMUNICATION** <https://www.clackamas.us/meetings/bcc/business>

Open Public Comment

General Public Comment in Person:

1. Jacqueline Arn – Beavercreek
2. Leila Blackly - Sandy
3. Les Poole - Gladstone

General Public Comment Zoom:

1. Dean Sir – West Linn
2. Bill Wehr – Damascus
3. Dave Farmer – West Linn

Closed Public Hearing

VI. COUNTY ADMINISTRATOR UPDATE <https://www.clackamas.us/meetings/bcc/business>

VII. COMMISSIONERS COMMUNICATION <https://www.clackamas.us/meetings/bcc/business>

***Adjourned 7:22 PM***

**Dear Honorable Chair Smith; Vice Chair Savas; Commissioners Schrader, Fischer, and Shull; Administrator Schmidt:**

Re: Veteran's Day Presentation, Agenda I.1, Business Meeting, November 10, 2021

**I too thank our country's veterans and their families** for their sacrifice and risk of life in keeping us safe and free. Our veterans and their families have made our nation supreme in keeping the world safe from widespread war, such as helping keep western Europe stable against in otherwise tendency towards periods of war.

I also want to give a **shout out to our own Commissioner Shull**, who is a veteran and who risked his own life negotiating with tribal leaders in Iraq to lower hostilities towards his fellow soldiers. He receives the Bronze Star for his meritorious service.

I include a photo salute to veterans from our Milwaukie "32<sup>nd</sup> Avenue Horse" (I took this photo in November 2019, around Veterans Day then).



Sincerely,  
Elvis Clark  
Milwaukie, Oregon 97222





November 23, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of 2021 House Bill 5006 Resolution

Purpose/Outcomes	Board approval of the 2021 HB 5006 Resolution
Dollar Amount and Fiscal Impact	Provides for funds of \$116,831 to be distributed to all Clackamas County property tax districts.
Funding Source	A one-time General Fund appropriation by the Oregon legislature was approved for the Department of Revenue to make grants to impacted counties.
Duration	Distribution of grant funds by December 31, 2021.
Previous Board Action/Review	On November 2, 2021, the Board voted to adopt a county Resolution allowing receipt of HB 5006 grant funds and distribution per the County Tax Collector's recommendation.
Strategic Plan Alignment	Build public trust through good government
Counsel Review	11/9/2021
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no X 2. If no, provide brief explanation: This is a grant allowed by legislation with approval by the County Commissioners. No procurement involvement is required.
Contact Person	Bronson Rueda, 503-655-8304

**BACKGROUND:**

During the 2021 legislative session, HB 5006 was passed allowing a one-time General Fund appropriation of \$23.2 million for the Department of Revenue (DOR) to make grants to counties for the reimbursement of lost tax revenue related to the 2020 wildfires. Distribution of these funds will be limited to counties included in Executive Order 20-60 that were impacted by the 2020 wildfires and that can

TAMI LITTLE  
COUNTY ASSESSOR

demonstrate losses due to the September 2020 wildfires in property tax years beginning on or after July 1, 2020.

On October 11, 2021, the Department of Revenue issued HB 5006 guidance to the impacted counties. The guidance outlines steps for counties to take, in order to receive the grant money. The steps include drafting a resolution with the amount requested, instructions on how to calculate each counties grant amount, a requirement for each county to describe how the grant money will be distributed, and a commitment for each county to provide a follow up report. The DOR will disburse the approved grant amount for tax year 2020-21 by December 31, 2021.

On November 5, 2021, the Department of Revenue issued revised HB 5006 guidance. Two main differences of note in this revised guidance are:

- 1) The amount to be distributed by December 31, 2001 is the first year's estimated lost tax revenue instead of all four years estimated lost tax revenue. For Clackamas County, that amount is \$116,831. At some point in the future, the Department of Revenue will issue additional guidance in 2022 regarding how to calculate lost tax revenue requests that would correspond to the 2021-22, 2022-23, and 2023-24 property tax years.
- 2) The Resolution is required to include a sworn statement that the requested amount represents estimated revenue lost in property tax years 2020-21 and 2021-22 due to the September 2021 wildfires.

Based on the DOR guidance, Clackamas County will receive \$116,831 for property tax year 2020-21. Future grant amounts will not be known until additional DOR guidance is released.

**RECOMMENDATION:**

Staff respectfully recommends adoption of the attached Resolution.

Sincerely,



Tami Little  
Assessor

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

In the Matter of Distribution of funds  
from 2021 House Bill 5006 for  
Reimbursement of Lost Property Tax  
Revenue Related to the 2020  
Wildfires



Resolution No. \_\_\_\_\_  
Page 1 of 2

**WHEREAS**, the 2021 Oregon legislature passed House Bill 5006 providing funds for grants to counties for the reimbursement of lost property tax revenue related to the 2020 wildfires;

WHEREAS, distribution of the funds appropriated by the Oregon legislature is limited to counties included in Executive Order 20-60 that were impacted by the 2020 wildfires;

WHEREAS, Clackamas County has been designated as a county impacted by the 2020 wildfires and thus is entitled to reimbursement for lost tax revenue;

WHEREAS, House Bill 5006 requires the County to apply for its available funds and provide its Resolution which shall include the amount requested for tax year 2020-21, how the county will distribute the funds, a commitment to provide a follow-up report, and a sworn statement that the requested amount represents estimated revenue lost in the property tax years 2020-21 and 2021-22 due to the September 2020 wildfires;

WHEREAS, the Assessor and staff have reviewed House Bill 5006 and provided an overview of the measure to the Board of County Commissioners on November 2, 2021;

WHEREAS, 2021 House Bill provides for funds of \$116,831 for tax year 2020-21 to be distributed to all Clackamas County property tax districts;

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS that:**

1. Clackamas County approves and requests distribution of grant funds from 2021 House Bill 5006 to replace estimated lost property tax revenue due to the 2020 wildfires in the amount of \$116,831 for the 2020-21 tax year, which will be distributed to Clackamas County property tax districts as follows:
2. Clackamas County will distribute the money to all taxing districts in the county using the 2020-21 tax year uniform distribution schedule;
3. Clackamas County commits to provide a report to the Oregon Department of Revenue per its guidance showing the amounts distributed to the taxing districts; and

4. Clackamas County swears that the amount requested represents estimated revenue lost in property tax year 2020-21 due to the September 2020 wildfires.

We also swear the lost revenue estimate for tax year 2021-22 is \$144,347 due to the September 2020 wildfires and will be requested and distributed in 2022 following further guidance from the Department of Revenue.

**DATED** this \_\_\_ day of \_\_\_ 2021.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

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Chair

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Recording Secretary

November 24, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Subrecipient Agreement with Clackamas Women’s Services  
to Provide Homeless Shelter Services – Children’s Progaming 2021.  
No County General Funds are involved.

<b>Purpose/ Outcome</b>	Signature approval of an agreement to provide funding for the education and services to be provided to children in a homeless shelter who are also overcoming sexual and domestic violence trauma.
<b>Dollar Amount and Fiscal Impact</b>	Community Development Block Grant (CDBG) FY21 funds of \$15,000 as a grant. No County General Funds are included in this Agreement.
<b>Funding Source</b>	U.S. Department of Housing and Urban Development (HUD)
<b>Duration</b>	July 1, 2021 to June 30, 2022
<b>Previous Board Action/ Review</b>	BCC Public Hearing on April 8, 2021. May 6, 2021 BCC Approval of the 2021 Action Plan which included \$50,000 for the Annie Ross House shelter.
<b>Strategic Plan Alignment</b>	Build a Strong Infrastructure. Ensure Safe, Healthy and Secure Communities.
<b>County Review</b>	1. The Subrecipient Agreement was reviewed and approved by County Counsel AN on October 26, 2021.
<b>Procurement Review</b>	1. Was the ítem processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Item is a Subrecipient that was processed through Finance Grant Management
<b>Contact Person</b>	Mark Sirois, Manager - Community Development: 503-351-7240
<b>Contract No.</b>	H3S #10430 Subrecipient Agreement 22-018

**BACKGROUND:** The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Sub-recipient Agreement for the purpose to provide education and services to children recovering from sexual and domestic violence who are housed in a domestic violence shelter located in Oregon City, OR, 97045. In 2019 Clackamas Women’s Services (CWS) applied for Community Development Block Grant (CDBG) funding to provide children’s progaming at homeless shelter.

**PROJECT OVERVIEW:** The CWS shelter will provide children’s education and awareness services to individuals and families as related to overcoming trauma.

It is expected that the funding under this CDBG contract will assist approximately 60 homeless families during the program year.



**RECOMMENDATION:** We recommend the signature approval of this Sub-recipient Agreement.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing Human Services

**CLACKAMAS COUNTY, OREGON  
SUBRECIPIENT GRANT AGREEMENT 22-018**

Project Name: **CDBG FY2021 CWS – Children’s Programming**  
Project Number: **6402 22200 - 1800**

This Agreement is between **Clackamas County**, Oregon, acting by and through its  
**Health, Housing and Human Services Department,**  
**Community Development Division** (“COUNTY”)  
and **Clackamas Women’s Services** (“SUBRECIPIENT”), an Oregon Nonprofit Organization.

**Clackamas County Data**

Grant Accountant: <b>Bouavieng Bounnam</b>	Program Manager: <b>Amy Council</b>
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 Phone: 503-742-5422 Email: bbounnam@clackamas.us	Clackamas County – Community Development 2051 Kaen Road, Suite 245 Oregon City, OR 97045 Phone: 971-349-2949 Email: acouncil@clackamas.us

**Subrecipient Data**

Finance/Fiscal Representative: <b>Carla Batcheller</b>	Program Representative: <b>Angie Drake</b>
Clackamas Women’s Services 256 Warner Milne Road Oregon City, OR 97045 Phone: 503-655-8600 Email: carlab@cwsor.org	Clackamas Women’s Services 256 Warner Milne Road Oregon City, OR 97045 Phone: 503-655-8600 Email: angied@cwsor.org
DUNS: 959059759	

**RECITALS**

1. This Agreement is entered into between COUNTY and SUBRECIPIENT to provide a basis for a cooperative working relationship for the purpose of implementing the Federal Community Development Block Grant program (“CDBG”) contained in U.S. Department of Housing and Urban Development (“HUD”), and regulations adopted under this Act at Subchapter C, 24 CFR Part 570, dated 1974, as amended, and Public Law 93-383 as amended. The program is designed to provide CDBG funds to SUBRECIPIENT to support homelessness prevention by securing funds to provide for staffing and program expenses at a local domestic violence shelter.
2. COUNTY has applied for and expects to receive CDBG funds from HUD under Title I of the Housing and Community Development Act of 1974, Public Law 93-383 (“ACT”).
3. Funds provided by COUNTY shall be used for expenditures for **CWS Homeless Shelter**, in Oregon City, OR, a domestic violence homeless shelter and funding is for the Children’s Program which provides education and services that help children overcome the trauma of domestic and sexual violence.
4. In response to a Congressional directive, HUD has required all recipients to use funds provided pursuant to this Agreement for eligible activities as described in 24 CFR 570.201 (e), and agrees not to use such funds for any ineligible activity described in 24 CFR 570.207.

5. SUBRECIPIENT shall expend CDBG funds to support the staffing and operations of a homeless shelter program benefiting homeless participants of the Children's Program. Documentation shall be provided through submission of quarterly reports on CWS House activities and persons served as related to the Children's Program. The report is included as Attachment A and shall be submitted to the COUNTY with each quarterly invoice.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement (this "Agreement") the COUNTY and SUBRECIPIENT agree as follows:

### AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the Program (described below) incurred no earlier than **July 1, 2021** and not later than **June 30, 2022**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in the attached Exhibit A: Subrecipient Scope of Work. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations, including Subpart C of Title I of the Housing and Community Act of 1974. Furthermore, SUBRECIPIENT shall comply with the requirements of CDBG award number B21-UC-41-0001 that is the source of the grant funding, in addition to compliance with requirements of Title I of the Code of Federal Regulations ("CFR"), Part 24, Sub-Part 570. A copy of that grant award has been provided to SUBRECIPIENT by COUNTY, which is attached to and made a part of this Agreement by this reference. SUBRECIPIENT shall further comply with any requirements, terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
4. **Grant Funds.** COUNTY's funding for this Agreement is the Community Development Block Grant (Assistance Listing #: 14.218) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification #B21-UC-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is **\$15,000**. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:

- a. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
- b. Mutual agreement by COUNTY and SUBRECIPIENT.
- c. Written notice provided by COUNTY that HUD has determined CDBG funds are no longer available for this purpose.
- d. Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

Upon completion of improvements or upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with COUNTY.

7. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
  - a. Has already accrued hereunder;
  - b. Comes into effect due to the expiration or termination of the Agreement; or
  - c. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.

8. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 8.
10. **Nonprofit status.** SUBRECIPIENT warrants that it is, and shall remain during the performance of this Agreement, a private nonprofit Organization as defined in the Regulations, including:
  - a. That it is described in Section 501(c) of the Internal Revenue Code of 1954;
  - b. That it is exempt from taxation under Subtitle A of the Internal Revenue Code of 1954;
  - c. That it has an accounting system and a voluntary board; and
  - d. That it practices nondiscrimination in the provision of assistance to the homeless.
11. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
  - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
  - b) **Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.
  - c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT.

Additionally, SUBRECIPIENT agrees to use funds provided only for eligible activities as described in 24 CFR 570 Subpart C.

- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- f) **Indirect Cost Recovery.** SUBRECIPIENT claims a portion of its provisional negotiated indirect cost rate (25.6% of salary/fringe) negotiated with the Department of Justice Office on Violence Against Women, dated May 10, 2021 as indicated in Exhibit B: Budget.
- g) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- h) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- i) **Performance Reporting.** HMIS reporting is not a requirement of this Agreement.
- j) **Evaluation.** SUBRECIPIENT agrees to participate with COUNTY in any evaluation project or performance report, as designed by COUNTY or HUD, and to make available all information required by any such evaluation process.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by COUNTY or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.
- l) **Specific Conditions.** None.
- m) **Grantor Recognition.** SUBRECIPIENT shall ensure recognition of the role of COUNTY in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, SUBRECIPIENT will include reference to the support provided herein in all publications made possible with funds available under this Agreement.
- n) **Supplanting.** The funding made available under this Agreement shall not be utilized by SUBRECIPIENT to reduce substantially (i.e. supplant) the amount of local financial support for shelter and assistance activities below the level of such support prior to the availability of funds under this Agreement.
- o) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.344—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibit E), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement.



- p) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System ("DUNS") as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <https://www.sam.gov>.
- q) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR Part 180. These rules restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- r) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- s) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within 9 months from SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- t) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.

COUNTY will monitor the performance of the SUBRECIPIENT against goals and performance standards required herein. Substandard performance as determined by COUNTY will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by SUBRECIPIENT within ten (10) days after being notified by COUNTY, Agreement termination and all funding will end. SUBRECIPIENT must return any unused funds promptly.

- u) **Records to be Maintained.** SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR 576.500 that are pertinent to the activities to be funded under this Agreement. Such records shall include but are not limited to:
  - 1. Client Eligibility Determinations and documentation;
  - 2. Rental Assistance Agreements;
  - 3. Service and assistance provided;
  - 4. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG funds; Financial records as required by 24 CFR Part 576 Subpart F.
  - 5. Client Data. SUBRECIPIENT shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but is not limited to: client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to COUNTY monitors or their designees for review upon request.
  - 6. Disclosure. SUBRECIPIENT understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with administration of COUNTY's or SUBRECIPIENT's responsibilities with respect to services provided under this Agreement, is prohibited unless consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
  - 7. Property Records. SUBRECIPIENT shall maintain real property inventory records which clearly identify properties purchased, improved, or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(7), as applicable.
- v) **Record Retention.** SUBRECIPIENT shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.
- w) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for the CDBG, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as COUNTY, under those grant documents.
- x) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, terminate this Agreement and all associated amendments, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.
- y) **Program Income.** SUBRECIPIENT shall report monthly all program income as defined at 2 CFR 200.307 generated by activities carried out with CDBG funds made available under this Agreement. By way of further limitations, SUBRECIPIENT may use such income during the Agreement period for

activities permitted under this Agreement and shall reduce request for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to COUNTY at the end of the Agreement period.

## 12. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. See Exhibit A for requirements.
- b) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- c) **Lead-Based Paint.** SUBRECIPIENT agrees to comply with the Lead-Based Paint Poisoning Prevention Act and implementing regulations at 24 CFR Part 35.
- d) **Drug-Free Workplace Act of 1988.** SUBRECIPIENT agrees to comply with the requirements of 24 CFR Part 24 concerning the Drug-Free Workplace Act of 1988 by administering in good faith a policy designed to ensure that its facilities are free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.
- e) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- f) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request COUNTY to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- g) **Disclosure of Information.** Except as may be permitted under applicable law, any confidential or personally identifiable information (as defined under 2 CFR 200.1) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- h) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT's

written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.

### 13. Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision. SUBRECIPIENT shall comply with the procurement standards applying to subrecipients under this Federal award contained in 2 CFR 200.318-326.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

### 14. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to (1) SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control; or (2) SUBRECIPIENT's performance under this Agreement including, but not limited to, any claim by a State or Federal funding source that SUBRECIPIENT used funds for an ineligible purpose. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:

- 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
- 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
- 4) **Abuse and Molestation Insurance.** Abuse and molestation insurance as part of the Commercial General Liability policy in a form and with coverage that are satisfactory to the County covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured shall include the Contractor, and the Contractor's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000.
- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, commissioners, officers, and employees" as an additional insured.
- 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days' notice of cancellation provision shall be physically endorsed on to the policy.
- 7) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. COUNTY and its officers must be named as an additional insured on the Certificate of Insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY.



The certificate will specify that all insurance-related provisions within the Agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

- 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.
- 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
- d) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- e) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- f) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- g) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

#### 15. Other Federal Requirements

- a) The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a). Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR part 135 apply.
- b) **Hatch Act.** SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United States Code.
- c) **Affirmative outreach.** SUBRECIPIENT must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the recipient or subrecipient intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. SUBRECIPIENT must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, SUBRECIPIENT is also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency ("LEP") persons.
- d) **Uniform Administrative Requirements.** The requirements of 2 CFR Part 200 Subpart B apply to SUBRECIPIENT and program income is to be used as the nonfederal share. These regulations include allowable costs and non-Federal audit requirements.
- e) **Religious Organization.** SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interest, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200 (j)(3)
- f) **Environmental review responsibilities.**



- 1) Activities under this part are subject to environmental review by HUD under 24 CFR Part 50. SUBRECIPIENT shall supply all available, relevant information necessary for COUNTY to perform for each property any environmental review required by 24 CFR Part 50. At the instruction of COUNTY SUBRECIPIENT may be required to carry out mitigating measures required by COUNTY or select alternate eligible property. COUNTY may eliminate from consideration any application that would require an Environmental Impact Statement ("EIS").
  - 2) SUBRECIPIENT, or any contractor of SUBRECIPIENT, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until COUNTY has performed an environmental review under 24 CFR Part 50 and SUBRECIPIENT has received COUNTY approval of the property.
- g) **Davis-Bacon Act.** The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) do not apply to these public services in the CDBG program.
- h) **Procurement of Recovered Materials.** SUBRECIPIENT and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency ("EPA") at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- i) **Displacement, Relocation, and Acquisition.** Consistent with the other goals and objectives of CDBG, SUBRECIPIENT must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under CDBG.
- j) **Temporary relocation not permitted.** No tenant-occupant of housing (a dwelling unit) that is converted into an emergency shelter may be required to relocate temporarily for a project assisted with CDBG funds, or be required to move to another unit in the same building/complex. When a tenant moves for a project assisted with CDBG funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), 42 U.S.C. 4601-4655, as described in paragraph (c) of this section, the tenant should be treated as permanently displaced and offered relocation assistance and payments consistent with that paragraph.
- k) **Non-displacement.** SUBRECIPIENT agrees to minimize displacement and comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and (b) the requirements of 24 CFR 570.606 governing the CDBG program. SUBRECIPIENT shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations, and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. SUBRECIPIENT also agrees to comply with applicable COUNTY ordinances, resolutions, and policies concerning the displacement of persons from their residences. Any activity which may result in a displaced person (defined in paragraph l. of this section) must be reported to COUNTY prior to the commencement of the activity. COUNTY shall determine the relocation assistance as provided in 24 CFR 570.606 and such assistance shall be subtracted from the CDBG funds provided to SUBRECIPIENT.
- l) **Displaced Person.** For purposes of paragraph k. of this section, the term "displaced person" means any person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership, or association) that moves from real property, or moves personal property from real

property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under the CDBG program. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property.

- m) **Real property acquisition requirements.** The acquisition of real property, whether funded privately or publicly, for a project assisted with CDBG funds is subject to the URA and Federal government wide regulations at 49 CFR Part 24, subpart B.
- n) **Appeals.** A person who disagrees with COUNTY's (or SUBRECIPIENT's, if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the recipient under 49 CFR 24.10. A low-income person who disagrees with the recipient's determination may submit a written request for review of that determination by the appropriate HUD field office.

## 16. Civil Rights

- a) **Compliance.** SUBRECIPIENT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Order 11375 and 12086.
- b) **Nondiscrimination.** SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, nation origin, sex, disability, or other handicap, age, marital/familial status, or status with regard to public assistance. SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this nondiscrimination clause.
- c) **Section 504.** SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1974, which prohibits discrimination against the handicapped in any Federally-assisted program. COUNTY shall provide SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

## 17. Affirmative Action

- a) **Plan.** SUBRECIPIENT agrees that it shall be committed to carry out pursuant to COUNTY's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- b) **Women and Minority Business Enterprises.** SUBRECIPIENT will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. SUBRECIPIENT may rely on written representation by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

- c) **Access to Records.** SUBRECIPIENT shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by COUNTY, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.
- d) **Notifications.** SUBRECIPIENT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Agreement or understandings, a notice, provided by the agency Agreementing officer, advising the labor union or worker's representative of SUBRECIPIENT's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e) **EEO/AA Statement.** SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that it is an Equal Opportunity or Affirmative Action employer.
- f) **Subcontracting Provisions.** SUBRECIPIENT will include the provisions of Paragraph 23, Civil Rights, and 24, Affirmative Action, in every subcontract or purchase orders, specifically or by reference, so that such provisions will be binding upon each of its subrecipients or subcontractors.

## 18. Employment Restrictions

- a) **Prohibited Activity.** SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.
- b) **Labor Standards.** SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with Davis-Bacon Act as amended, the provisions of Agreement: Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to COUNTY for review upon request. SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all Agreements engaged under Agreements in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by COUNTY pertaining to such Agreements and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provide, that if wage rates higher than those required under the regulations are imposed by state or local laws, nothing hereunder is intended to relieve SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. SUBRECIPIENT will cause or require to be inserted in full, in all Agreements subject to such regulations, provisions meeting the requirements of this paragraph.
- c) **Job Training and Employment for Low-income Residents -Section 3**
  - i. **Compliance.** SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients or subcontractors, shall comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 ("Section 3"), the regulations set forth in 24 CFR, Subtitle A, Part 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement. Failure to fulfill these requirements shall subject SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. SUBRECIPIENT certifies and agrees that no agreements or other

disability exist which would prevent compliance with these requirements.

- ii. SUBRECIPIENT further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

*"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and Agreements for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."*

- iii. SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award Agreements for work undertaken in connection to housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.
- iv. SUBRECIPIENT certifies and agrees that no agreement or other legal incapacity exists which would prevent compliance with these requirements.
- v. **Notifications.** SUBRECIPIENT agrees to send to each labor organization or representative of worker with which it has a collective bargaining agreement or other Agreement or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- vi. **Subcontracts.** SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the grantor agency. SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 75 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

19. **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
20. **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
21. **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered

personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.

22. **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
23. **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
24. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
25. **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
26. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

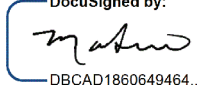
*(Signature Page Follows)*



SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

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

**CLACKAMAS WOMEN'S SERVICES**

DocuSigned by:  
  
By: \_\_\_\_\_  
Melissa Erlbaum  
Executive Director

Melissa Erlbaum 10/29/2021

Printed Name \_\_\_\_\_ Date \_\_\_\_\_  
256 Warner Milne Road  
Street Address \_\_\_\_\_  
Oregon City, OR 97045  
City / State / Zip \_\_\_\_\_

**CLACKAMAS COUNTY**

Commissioner: Tootie Smith, Chair  
Commissioner: Sonya Fischer  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Mark Shull

\_\_\_\_\_  
Tootie Smith, Chair  
Board of County Commissioners  
\_\_\_\_\_  
Date \_\_\_\_\_

**Approved to Form:**

\_\_\_\_\_  
Andrew Naylor via email  
County Counsel  
\_\_\_\_\_  
10/26/2021  
Date \_\_\_\_\_

- Exhibit A. SUBRECIPIENT Scope of Work
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Lobbying Certificate
- Exhibit D: Required Financial Reporting and Reimbursement Request
- Exhibit E: Final Financial Report
- Attachment A: Community Development Block Grant – Annual Report

## EXHIBIT A

### SUBRECIPIENT SCOPE OF WORK

1. Scope of Work for: Clackamas Women's Services – Children's Programming 2021

These CDBG funds are to be used to prevent, prepare for, and respond to homelessness prevention among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities. SUBRECIPIENT agrees to accomplish the following work under this Agreement:

- A. Provide emergency shelter services to homeless families by paying for staff and other operational expenses.
  - B. It is expected that the funding under this CDBG contract will assist approximately 60 homeless families with shelter services during the program year.
2. SUBRECIPIENT agrees to use funds provided pursuant to this Agreement for eligible activities as described in 24 CFR 570.201 (c), and agrees not to use such funds for any ineligible activity described in 24 CFR 570.207.
  3. SUBRECIPIENT shall expend CDBG funds to support the staffing and operations of a homeless shelter benefiting homeless persons. Documentation shall be provided through submission of quarterly reports on all Annie Ross House activities and persons served. The report is included as Attachment A and shall be submitted to COUNTY with each quarterly invoice.
  4. COUNTY will monitor the performance of SUBRECIPIENT against goals and performance standards required herein. Substandard performance as determined by COUNTY will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by SUBRECIPIENT within ten (10) days after being notified by COUNTY, Agreement termination and all funding will end. SUBRECIPIENT must return any unused funds promptly.
  5. COUNTY agrees to apply for and administer CDBG funds received under the ACT, and to provide funds to SUBRECIPIENT pursuant to this Agreement.

**EXHIBIT B**

**SUBRECIPIENT PROGRAM BUDGET**

- A. The total compensation under this contract shall not exceed \$15,000 for the fiscal year with payments to be made as outlined in the body of this Agreement.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Budget Category	Maximum Expenditure FY21
Personnel	\$11,900
Program Supplies	\$54
Indirect Costs*	\$3,046
TOTAL	\$15,000

\*SUBRECIPIENT claims a portion of their federally-negotiated indirect cost rate of 25.6% of salary/fringe, negotiated with the DOJ Office on Violence Against Women (provisional rate; date May 10, 2021)

**EXHIBIT C: CONGRESSIONAL LOBBYING CERTIFICATE**

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 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.)].

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 section 1352, title 31, U.S. Code (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.

[Note: 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 expenditure or failure.]

The Authorized Representative certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Organization understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

22-2018

Clackamas women's services

Organization Name

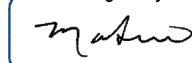
Award Number or Project Name

Melissa Erlbaum

Executive Director

Name and Title of Authorized Representative

DocuSigned by:



10/29/2021

Signature

DBCAD1860649464...

Date

**Exhibit D  
REQUEST FOR REIMBURSEMENT**

**Note: This form derives from the approved budget in your grant Agreement.  
Please follow instructions for completing this form as outlined in Exhibit D.1.**

<b>Subrecipient</b> <u>Clackamas Women's Services</u>	<b>Grant Number:</b> <u>22-018</u>
<b>Address:</b> _____	<b>Report Period:</b> _____
	<b>Contract #:</b> _____
<b>Contact Person:</b> _____	<b>Federal Award #:</b> <u>B21-UC-41-0001</u>
<b>Phone Number:</b> _____	<b>CFDA(s):</b> <u>14.218</u>
<b>E-mail:</b> _____	

Budget Category	Budget	Current Draw Request	Previously Requested	Balance
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
<b>Total Grant Funds Requested</b>	\$ -	\$ -	\$ -	\$ -

**ATTACH ALL RECEIPTS AND REQUIRED CLIENT DOCUMENTATION.**

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

**CERTIFICATION**

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

**Prepared by:** \_\_\_\_\_

**Authorized Signer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Department Review**

**Project Officer Name:** \_\_\_\_\_

**Department:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_



#### **EXHIBIT D.1: REIMBURSEMENT INSTRUCTIONS**

Reimbursement by COUNTY will be within 30 days of receipt of acceptable countersigned itemized invoices or billings reflecting the actual cost to SUBRECIPIENT of eligible expenses. Each invoice shall be accompanied with a detailed Request for Reimbursement (Exhibit D) which shall include appropriate documentation. This documentation shall include signed and approved timecards for personnel expenses and itemized invoices or billings for materials and services.

- COUNTY must provide HUD with specific household demographic information for each household served by CDBG funds. The household information will be collected from SUBRECIPIENT and must accompany the first SUBRECIPIENT invoice for each household.
- The request for reimbursement shall also include a summary of expenses incurred for each household along with source documentation. In addition, an HMIS report documenting the type and amount of financial assistance for each household shall accompany the invoice.
- Information on the request for reimbursement form, the household demographics, the source documentation and the summary of expenses incurred for each specific household from the HMIS reports must all correlate. See Attachment A.

<b>Project Name: CDBG 2021 Children's Programming</b>	<b>Agreement #: 22-018</b>
<b>Federal Award #: B21-UC-41-0001</b>	<b>Date of Submission: XX/XX/XX</b>
<b>Subrecipient: CLACKAMAS WOMEN'S SERVICES</b>	
<b>Has Subrecipient submitted all requests for reimbursement? Y/N</b>	
<b>Has Subrecipient met all programmatic closeout requirements? Y/N</b>	

## EXHIBIT E: Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

Total Federal Funds authorized on this agreement:	\$15,000
Year-to-Date Federal Funds requested for reimbursement on this agreement:	
Total Federal Funds received on this agreement:	
Balance of unexpended Federal Funds (Line 1 minus Line 3):	

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

Subrecipient's Certifying Official (printed): \_\_\_\_\_

Subrecipient's Certifying Official (signature): \_\_\_\_\_

Subrecipient's Certifying Official's title: \_\_\_\_\_

## ATTACHMENT A

### COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL PERFORMANCE REPORT FOR THE PERIOD: JULY 1, \_\_\_\_\_ TO JUNE 30, \_\_\_\_\_ (after project completion)

Project Name: **CWS Children's Programming**

Total Number Assisted (H or P)	Total of Columns C, D, and E	Income Categories			Female Headed Households
		Low/Mod (80% - 51%)	Very Low (50% - 30%)	Extremely Low (<30%)	
(A)	(B)	(C)	(D)	(E)	(F)

# of Females \_\_\_\_\_  
 # of Males \_\_\_\_\_  
 # of Elderly \_\_\_\_\_  
 # of persons with disabilities \_\_\_\_\_

Race Categories		Total #	# Hispanic
		(G)	(H)
(1)	White:		
(2)	Black/African American:		
(3)	Asian:		
(4)	American Indian/Alaskan Native:		
(5)	Native Hawaiian/Other Pacific Islander:		
(6)	American Indian/Alaskan Native & White:		
(7)	Asian & White:		
(8)	Black/African American & White:		
(9)	Am.Indian/Alaskan Native & Black/African Am:		
(10)	Other Multi-Racial:		

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Organization

## INSTRUCTIONS

### Total Number Assisted (Column A):

Enter the actual number of persons (or households) who received assistance. Indicate whether this number represents "households" or "persons" with either (H) or (P) respectively. Each household or person may be counted only once. The number of beneficiaries reported in Column A must reflect the total of the beneficiaries reported in Column G.

### Total Low/Mod (<80% MFI) (Column B):

The total number of lower income households or persons being served (total of Columns C, D, and E) should be entered in this column.

#### *Income Categories*

Low/Mod (Column C) - The total number of persons or households assisted who have an annual household income of 51% to 80% Median Family Income.

Low (Column D) - The total number of persons or households assisted who have an annual household income of 30% to 50% Median Family Income.

Extremely Low (Column E) - The total number of persons or households assisted who have an annual household income of 30% Median Family Income or less.

### Female-Headed Household (Column F)

Enter the number of female-headed households. If "persons" assisted is reported in Column A rather than "households" assisted, leave this column blank.

### Race (Rows 1 through 10)

All persons/households served (including persons of Hispanic ethnicity) must indicate Race.

Enter the number of households or persons using the facility or service (Column G) who are the following:

White (Row 1) - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East. This category will generally include persons of Hispanic ethnicity but other categories may be chosen as appropriate.

Black or African American (Row 2) - A person having origins in any of the black racial groups of Africa.

Asian (Row 3) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.

American Indian or Alaskan Native Origin (Row 4) - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliations or community recognition.

Native Hawaiian or Other Pacific Islander (Row 5) – A person having origins in the Hawaiian Islands or other Pacific Islands.

American Indian or Alaska Native **and** White (Row 6)

Asian **and** White (Row 7)

Black or African American **and** White (Row 8)

American Indian or Alaska Native **and** Black or African American (Row 9)

Other Multi-Racial (Row 10) – The balance category will be used to report individuals that are not included in any of the single race categories or in any of the multiple race categories listed above.

*Ethnicity – Hispanic (Column H)*

Enter the total number of persons or households within each Race Category who indicate origins in Mexico, Puerto Rico, Cuba, Central or South America or other Spanish culture or origin.

November 24, 2021

Members of the Board:

Approval of Subordination Agreement with JLL Real Estate Capital, LLC for HOME Loan with Mt. Scott Terrace and attached Legal Counsel Board Order Approving Agreement provided there are no material changes. Subordination is to agree to JLL Real Estate Capital, LLC in first position, for a loan term of 7 years.

No County General Funds, changes in HOME requirements, or HOME funding are involved.

<b>Purpose/Outcome</b>	Request approval of subordination request from Guardian Holding, Inc. for the refinancing of HOME loan activity – Mt. Scott Terrace Limited Partnership with JLL Real Estate Capital, LLC and attached Legal Counsel Board Order.
<b>Dollar Amount and Fiscal Impact</b>	No fiscal impact
<b>Funding Source</b>	HUD HOME 2004 affordable housing activity. No County General Funds are involved.
<b>Duration</b>	Effective upon signature until May 31, 2036.
<b>Previous Board Action/Review</b>	BCC Business meetings – May 27, 2004, HOME loan documents approved in the amount of \$400,000 for 9 HOME units; April 28, 2005, Amendment #1 approved to increase funding to \$450,000 for 10 HOME units; August 5, 2021, Transfer of General Partner interests from Geller, Silvis & Associates, Inc. to Guardian Holding, Inc.
<b>Strategic Plan Alignment</b>	Approval of this item will allow for continued access to safe, stable, affordable housing for fifty-two households with incomes below 60% of median area income; and build public trust by sharing the process to date in this request for BCC approval.
<b>Counsel Review</b>	Date of County Counsel review: November 1, 2021 County Counsel: Andrew Naylor * requesting attached Board Order approval for requested Subordination document, explanation in Background section
<b>Procurement Review</b>	Was the item process through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> If no, provide brief explanation: item is not procuring goods or services
<b>Contact Person</b>	Pamela Anderson 971/804-3464
<b>Contract No.</b>	10420

**BACKGROUND:**

History - Clackamas County entered into a HOME loan Agreement with Mt. Scott Associates Limited Partnership dated Mary 27, 2004, as subsequently amended April 28, 2005, in the amount of \$450,000 for the development of the Mt. Scott Terrace, a multi-family rental project consisting of 52, two and three bedroom units targeting working families located in Happy Valley, OR.



On August 5, 2021 the BCC approved the transfer from Anna's Geller Properties LLC entity to Guardian GM Mt. Scott Terrace LLC.

Guardian entity is acquiring the limited partner interests with a re-finance with JLL Real Estate Capital, LLC (Lender). JLL Real Estate Capital, LLC is requesting that the HOME loan be subordinate to their loan. The loan closing with them will be after this BCC meeting and is dependent on BCC approval.

County Counsel, Andrew Naylor, has reviewed the Subordination document and has provided approval with the attached prepared Board Order for Clackamas County Board of Commissioners or County Administrator. This prepared Board Order delegate's limited authority to sign the Agreement provided no material changes are made between the date of this Order and the closing of Borrower's refinance transaction due to BCC meeting and loan closing timing differences. The Freddie Mac subordination agreement will not be signed by the parties until much closer to closing as is Freddie Mac's standard, nationwide practice.

Guardian entity will continue to own and operate the property abiding by all HOME requirements in the original HOME loan documents.

**RECOMMENDATION:**

Staff recommends approval of both the Subordination request and the County Counsel prepared Board Order, and authorizes the Chair/County Administrator to sign on behalf of the County.

Respectfully submitted,



Rodney A. Cook  
Director  
Health, Housing and Human Services (H3S)

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

In the Matter of Approving HOME  
Loan Subordination Agreement



Board Order No. \_\_\_\_\_  
*Page 1 of 2*

**Whereas**, the Clackamas County Board of County Commissioners (the "Board") has authority to sign all contracts, loans, and any amendments or renewals of the same;

**Whereas**, Clackamas County ("County") entered into a HOME Loan Agreement with Mt. Scott Associates Limited Partnership ("Borrower") dated as of May 27, 2004, as subsequently amended, wherein County loaned Borrower the principal amount of \$450,000 ("**HOME Loan**");

**Whereas** Borrower has obtained refinancing to acquire limited partner interest;

**Whereas**, to close on the refinancing, Borrower's lender requires County to execute a subordination agreement (the "Agreement");

**Whereas**, due to the timing and nature of the closing of Borrower's refinance transaction, non-substantive changes may occur to the Agreement after the date of this Order, making it impossible for a final Agreement to be presented to the Board in the normal course of business;

**NOW THEREFORE, the Clackamas County Board of County Commissioners resolves as follows:**

1. Execution of the Agreement in substantially the form attached hereto is hereby approved;
2. The Chair of the Clackamas County Board of Commissioners or the Clackamas County Administrator are hereby delegated limited authority to sign the Agreement provided no material changes are made between the date of this Order and the closing of Borrower's refinance transaction.

**[Signatures to Follow]**

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

In the Matter of Approving HOME  
Loan Subordination Agreement



Board Order No. \_\_\_\_\_  
*Page 2 of 2*

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 2021

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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

# Contract Transmittal Form

## Health, Housing & Human Services Department

H3S Contract #: 10420

Division: CD

Subrecipient

Board Order #:

Contact: Anderson, Pamela

Revenue

Program Contact:

Amend # \$

Anderson, Pamela

Procurement Verified

Aggregate Total Verified

Non BCC Item

BCC Agenda

Date: Wednesday, November 24, 2021

**CONTRACT WITH:** Mt. Scott Associates Limited Partnership

**CONTRACT AMOUNT:** \$450,000.00

### TYPE OF CONTRACT

Agency Service Contract

Memo of Understanding/Agreement

Construction Agreement

Professional, Technical & Personal Services

Intergovernmental Agreement

Property/Rental/Lease

Interagency Services Agreement

One Off

### DATE RANGE

Full Fiscal Year

4 or 5 Year

Upon Signature

Biennium

Other

Retroactive Request?

### INSURANCE What insurance language is required?

Checked Off  N/A

**Commercial General Liability:**

Yes

No, not applicable

No, waived

If no, explain why:

**Business Automobile Liability:**

Yes

No, not applicable

No, waived

If no, explain why:

**Professional Liability:**

Yes

No, not applicable

No, waived

If no, explain why:

Approved by Risk Mgr \_\_\_\_\_

Risk Mgr's Initials and Date

### BOILER PLATE CHANGE

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

No

Yes (must have CC approval-next box)

N/A

(Not a County boilerplate - must have CC approval)

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

### COUNTY COUNSEL

Yes by: Andrew Naylor

Date Approved: Monday, November 1, 2021

OR

This contract is in the format approved by County Counsel.

### SIGNATURE OF DIVISION REPRESENTATIVE:

*Pamela Anderson*

Date: Nov. 3, 2021

H3S Admin  
Only

Date Received: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Sent: \_\_\_\_\_

# AGREEMENTS/CONTRACTS

New Agreement/Contract

X Amendment/Change Order Original Number \_\_\_\_\_

**ORIGINATING COUNTY**

**DEPARTMENT: Health, Housing Human Services  
Community Development**

**PURCHASING FOR: Contracted Services** \_\_\_\_\_

**OTHER PARTY TO**

**CONTRACT/AGREEMENT: Mt. Scott Associates Limited Partnership** \_\_\_\_\_

**BOARD AGENDA ITEM**

**NUMBER/DATE: \_\_\_\_\_ DATE: 11/24/2021** \_\_\_\_\_

**PURPOSE OF**

**CONTRACT/AGREEMENT:** A multi-family rental project consisting of 52, two and three bedroom units targeting working families located in Happy Valley, OR.

Guardian entity is acquiring the limited partner interests with a re-finance with JLL Real Estate Capital, LLC (Lender) for Mt. Scott Terrace 2004 HOME affordable housing activity. JLL Real Estate Capital, LLC is requesting that the HOME loan be subordinate to their loan. Subordination and Legal Counsel Board Order documents being submitted for BCC approval for this item.

**H3S CONTRACT NUMBER: 10420** \_\_\_\_\_

Prepared by, and after recording  
return to:  
Robinson & Cole LLP  
1055 Washington Boulevard  
Stamford, CT 06901  
Attention: Matthew M. Dolan, Esq.

Property Name: Terrace at Mount Scott Apartments  
Freddie Mac Loan Number: 508841208

**SUBORDINATION AGREEMENT**  
**GOVERNMENTAL ENTITY**  
**(Revised 6-15-2020)**



Property Name: Terrace at Mount Scott Apartments  
Freddie Mac Loan Number: 508841208

## SUBORDINATION AGREEMENT

### GOVERNMENTAL ENTITY

(Revised 6-15-2020)

THIS SUBORDINATION AGREEMENT (“**Agreement**”) is entered into as of October \_\_, 2021, by and between (i) **JLL REAL ESTATE CAPITAL, LLC**, a Delaware limited liability company (“**Senior Lender**”) and (ii) **CLACKAMAS COUNTY**, a political subdivision of the State of Oregon, through its Community Development Division (“**Subordinate Lender**”).

### RECITALS

- A. **MT. SCOTT ASSOCIATES LIMITED PARTNERSHIP**, an Oregon limited partnership (“**Borrower**”) is the owner of certain land located in Clackamas County, Oregon, described in Exhibit A (“**Land**”). The Land is improved with a multifamily rental housing project (“**Improvements**”).
- B. Senior Lender has made or is making a loan to Borrower in the original principal amount of \$4,010,000 (“**Senior Loan**”) upon the terms and conditions of a Multifamily Loan and Security Agreement dated as of October \_\_, 2021, between Senior Lender and Borrower (“**Senior Loan Agreement**”) in connection with the Mortgaged Property. The Senior Loan is secured by a Multifamily Deed of Trust, Assignment of Rents and Security Agreement dated as of the date of the Senior Loan Agreement (“**Senior Mortgage**”) encumbering the Land, the Improvements and related personal and other property described and defined in the Senior Mortgage as the “**Mortgaged Property**.”
- C. Pursuant to a HOME Loan Agreement dated as of May 27, 2004, between Subordinate Lender and Borrower, as amended (“**Subordinate Loan Agreement**”), Subordinate Lender has made or is making a loan to Borrower in the original principal amount of \$400,000, as increased to \$450,000 (“**Subordinate Loan**”). The Subordinate Loan is or will be secured by a Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated as of September 2, 2004, as amended (“**Subordinate Mortgage**”) encumbering all or a portion of the Mortgaged Property.
- D. The Senior Mortgage will be recorded in the Official Records of Clackamas County, Oregon (“**Recording Office**”). The Subordinate Mortgage is recorded in the Recording Office at as Document Number 2004-082774, as modified by Document Number 2005-43650.

- E. The execution and delivery of this Agreement is a condition of Senior Lender's making of the Senior Loan.

## AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Definitions.** The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), will have the following meanings:

The terms "**Condemnation**," "**Imposition Deposits**," "**Impositions**," "**Leases**," "**Rents**" and "**Restoration**," as well as any term used in this Agreement and not otherwise defined in this Agreement, will have the meanings given to those terms in the Senior Loan Agreement.

"**Bankruptcy Proceeding**" means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

"**Borrower**" means all persons or entities identified as "Borrower" in the first Recital of this Agreement, together with their successors and assigns, and any other person or entity who acquires title to the Mortgaged Property after the date of this Agreement; provided that the term "Borrower" will not include Senior Lender if Senior Lender acquires title to the Mortgaged Property.

"**Casualty**" means the occurrence of damage to or loss of all or any portion of the Mortgaged Property by fire or other casualty.

"**Enforcement Action**" means any of the following actions taken by or at the direction of Subordinate Lender: the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee's sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker's lien or rights of set-off or recoupment, or the exercise of any other remedial action against Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

**“Enforcement Action Notice”** means a Notice given from Subordinate Lender to Senior Lender following one or more Subordinate Mortgage Default(s) and the expiration of any applicable notice or cure periods, setting forth in reasonable detail the Subordinate Mortgage Default(s) and the Enforcement Actions proposed to be taken by Subordinate Lender.

**“Lien”** means any lien, encumbrance, estate or other interest, recorded against or secured by the Mortgaged Property.

**“Loss Proceeds”** means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.

**“Notice”** means all notices, requests, demands, consents, approvals or other communication pursuant to this Agreement provided in accordance with the provisions of Section 10.

**“Regulatory Agreement”** means the Declaration of Land Use Restrictive Covenants between Borrower and Subordinate Lender recorded in the Recording Office on September 3, 2004 as Recording No.: 2004-082773; which Declaration was modified and replaced by instrument recorded May 13, 2005 as Recording No.: 2005-043649; which Declaration was further modified and replaced by instrument recorded January 17, 2007 as Recording No.: 2007-003798; and as amended by instrument recorded October 23, 2015, as Recording No.: 2015-071424.

**“Senior Indebtedness”** means the “Indebtedness” as defined in the Senior Loan Agreement.

**“Senior Lender”** means the “Lender” as defined in the Senior Mortgage. When any other person or entity becomes the legal holder of the Senior Note, such other person or entity will automatically become Senior Lender.

**“Senior Loan Documents”** means the “Loan Documents” as defined in the Senior Loan Agreement, as such documents may be amended.

**“Senior Mortgage Default”** means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of Notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Senior Loan Agreement.

**“Senior Note”** means the promissory note or other evidence of the Senior Indebtedness and any replacement of the Senior Note.

**“Subordinate Indebtedness”** means all sums evidenced or secured or guaranteed by, or otherwise due and payable to Subordinate Lender pursuant to, the Subordinate Loan Documents.

**“Subordinate Lender”** means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Subordinate Note after the date of this Agreement.

**“Subordinate Loan Documents”** means the Subordinate Mortgage, the Subordinate Note, the Subordinate Loan Agreement, the Regulatory Agreement and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as such documents may be amended.

**“Subordinate Mortgage Default”** means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement), Subordinate Lender to take an Enforcement Action.

**“Subordinate Note”** means the promissory note or other evidence of the Subordinate Indebtedness and any replacement of the Subordinate Note.

**“Surplus Cash”** means, with respect to any period, any revenues of Borrower remaining after paying, or setting aside funds for paying, all the following:

- (a) All sums due or currently required to be paid under the Senior Loan Documents, including any reserves and Imposition Deposits.
- (b) All reasonable operating expenses of the Mortgaged Property, including real estate taxes, insurance premiums, utilities, building maintenance, painting and repairs, management fees, payroll, administrative expenses, legal expenses and audit expenses (excluding any developer fees payable with respect to the Mortgaged Property).

## **2. Subordinate Lender’s Representations and Warranties.**

- (a) Subordinate Lender represents and warrants that each of the following is true as of the date of this Agreement:
  - (i) Subordinate Lender is now the owner and holder of the Subordinate Loan Documents.
  - (ii) No Subordinate Mortgage Default has occurred and is continuing.
  - (iii) The current unpaid principal balance of the Subordinate Indebtedness is [\$ ].
  - (iv) No scheduled payments under the Subordinate Note have been prepaid.
- (b) Without the prior written consent of Senior Lender, Subordinate Lender will not do any of the following:

- (i) Pledge, assign, transfer, convey, or sell any interest in the Subordinate Indebtedness or any of the Subordinate Loan Documents.
- (ii) Take any action which has the effect of increasing the Subordinate Indebtedness, except to cure a Senior Mortgage Default as contemplated under Section 5(a) of this Agreement.
- (iii) Accept any prepayment of the Subordinate Indebtedness.

**3. Terms of Subordination.**

- (a) Agreement to Subordinate. The Subordinate Indebtedness is and will at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Indebtedness. Each of the Subordinate Loan Documents is, and will at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.
- (b) Subordination of Subrogation Rights. If Subordinate Lender, by indemnification, subrogation or otherwise, acquires any Lien on any of the Mortgaged Property, then that Lien will be fully subject and subordinate to the receipt by Senior Lender of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Subordinate Indebtedness and the Subordinate Loan Documents are subordinate pursuant to this Agreement.
- (c) Payments Before Senior Loan Default; Soft Subordinate Debt. Until the occurrence of a Senior Mortgage Default, Subordinate Lender will be entitled to retain for its own account all payments of the principal of and interest on the Subordinate Indebtedness pursuant to the Subordinate Loan Documents; provided that Subordinate Lender expressly agrees that it will not accept any such payment that is made more than 10 days in advance of its due date and provided further that Subordinate Lender agrees that Borrower will not be obligated to make payments on the Subordinate Indebtedness in an amount that exceeds 75% of then available Surplus Cash.
- (d) Payments After Senior Loan Default or Bankruptcy.
  - (i) Immediately upon Subordinate Lender's receipt of Notice or actual knowledge of a Senior Mortgage Default, Subordinate Lender will not accept any payments of the Subordinate Indebtedness, and the provisions of Section 3(d) of this Agreement will apply.
  - (ii) If Subordinate Lender receives any of the following, whether voluntarily or by action of law, after a Senior Mortgage Default of which Subordinate Lender has actual knowledge (or is deemed to have actual knowledge as

provided in Section 4(c)) or has been given Notice, such will be received and held in trust for Senior Lender:

- (A) Any payment, property, or asset of any kind or in any form in connection with the Subordinate Indebtedness.
  - (B) Any proceeds from any Enforcement Action.
  - (C) Any payment, property, or asset in or in connection with any Bankruptcy Proceeding.
- (iii) Subordinate Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets described in Section 3(d)(ii) to Senior Lender. Senior Lender will apply any payment, asset, or property so received from Subordinate Lender to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Senior Lender determines in its sole and absolute discretion.
- (e) Bankruptcy. Without the prior written consent of Senior Lender, Subordinate Lender will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, Subordinate Lender will not vote affirmatively in favor of any plan of reorganization or liquidation unless Senior Lender has also voted affirmatively in favor of such plan.

#### **4. Default Under Subordinate Loan Documents.**

- (a) Notice of Subordinate Loan Default and Cure Rights.
- (i) Subordinate Lender will deliver to Senior Lender a copy of each Notice delivered by Subordinate Lender pursuant to the Subordinate Loan Documents within 5 Business Days of sending such Notice to Borrower. Neither giving nor failing to give a Notice to Senior Lender pursuant to this Section 4(a) will affect the validity of any Notice given by Subordinate Lender to Borrower.
  - (ii) For a period of 90 days following delivery to Senior Lender of an Enforcement Action Notice, Senior Lender will have the right, but not the obligation, to cure any Subordinate Mortgage Default. However, if such Subordinate Mortgage Default is a non-monetary default and is not capable of being cured within such 90-day period and Senior Lender has commenced and is diligently pursuing such cure to completion, Senior Lender will have such additional period of time as may be required to cure such Subordinate Mortgage Default or until such time, if ever, as Senior Lender takes either of the following actions:



- (A) Discontinues its pursuit of any cure.
    - (B) Delivers to Subordinate Lender Senior Lender's written consent to the Enforcement Action described in the Enforcement Action Notice.
  - (iii) Senior Lender will not be subrogated to the rights of Subordinate Lender under the Subordinate Loan Documents as a result of Senior Lender having cured any Subordinate Mortgage Default.
  - (iv) Subordinate Lender acknowledges that all amounts advanced or expended by Senior Lender in accordance with the Senior Loan Documents or to cure a Subordinate Mortgage Default will be added to and become a part of the Senior Indebtedness and will be secured by the lien of the Senior Mortgage.
- (b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender.
- (i) In the event of a Subordinate Mortgage Default, Subordinate Lender will not commence any Enforcement Action until 90 days after Subordinate Lender has delivered to Senior Lender an Enforcement Action Notice. During such 90-day period or such longer period as provided in Section 4(a), Subordinate Lender will be entitled to seek specific performance to enforce covenants and agreements of Borrower relating to income, rent, or affordability restrictions contained in the Regulatory Agreement, subject to Senior Lender's right to cure a Subordinate Mortgage Default set forth in Section 4(a).
  - (ii) Subordinate Lender may not commence any other Enforcement Action, including any foreclosure action under the Subordinate Loan Documents, until the earlier of:
    - (A) The expiration of such 90-day period or such longer period as provided in Section 4(a).
    - (B) The delivery by Senior Lender to Subordinate Lender of Senior Lender's written consent to such Enforcement Action by Subordinate Lender.
  - (iii) Subordinate Lender acknowledges that Senior Lender may grant or refuse consent to Subordinate Lender's Enforcement Action in Senior Lender's sole and absolute discretion. At the expiration of such 90-day period or such longer period as provided in Section 4(a) and, subject to Senior Lender's right to cure set forth in Section 4(a), Subordinate Lender may commence any Enforcement Action.

- (iv) Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Subordinate Lender. No action or failure to act on the part of Senior Lender in the event of a Subordinate Mortgage Default or commencement of an Enforcement Action will constitute a waiver on the part of Senior Lender of any provision of the Senior Loan Documents or this Agreement.
- (c) Cross Default. Subordinate Lender acknowledges that a Subordinate Mortgage Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Subordinate Mortgage Default, Subordinate Lender will be deemed to have actual knowledge of a Senior Mortgage Default. If Subordinate Lender notifies Senior Lender in writing that any Subordinate Loan Default of which Senior Lender has received Notice has been cured or waived, as determined by Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Mortgaged Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Subordinate Loan Default will be deemed cured, and the Senior Loan will be reinstated.

**5. Default Under Senior Loan Documents.**

- (a) Notice of Senior Loan Default and Cure Rights.
  - (i) Senior Lender will deliver to Subordinate Lender a copy of any Notice sent by Senior Lender to Borrower of a Senior Mortgage Default within 5 Business Days of sending such Notice to Borrower. Failure of Senior Lender to send Notice to Subordinate Lender will not prevent the exercise of Senior Lender's rights and remedies under the Senior Loan Documents.
  - (ii) Subordinate Lender will have the right, but not the obligation, to cure any monetary Senior Mortgage Default within 30 days following the date of such Notice. During such 30-day period Senior Lender will be entitled to continue to pursue its remedies under the Senior Loan Documents.
  - (iii) Subordinate Lender may, within 90 days after the date of the Notice, cure a non-monetary Senior Mortgage Default if during such 90-day period, Subordinate Lender keeps current all payments required under the Senior Loan Documents. If such a non-monetary Senior Mortgage Default creates an unacceptable level of risk relative to the Mortgaged Property, or Senior Lender's secured position relative to the Mortgaged Property, as determined by Senior Lender in its sole discretion, then during such 90-day period Senior Lender may exercise all available rights and remedies to protect and preserve the Mortgaged Property and the Rents, revenues and other proceeds from the Mortgaged Property.

- (iv) All amounts paid by Subordinate Lender to Senior Lender to cure a Senior Mortgage Default will be deemed to have been advanced by Subordinate Lender pursuant to, and will be secured by the lien of, the Subordinate Mortgage. Notwithstanding anything in this Section 5(a) to the contrary, Subordinate Lender's right to cure any Senior Mortgage Default will terminate immediately upon the occurrence of any Bankruptcy Proceeding.

(b) Release of Mortgaged Property.

- (i) Subordinate Lender consents to and authorizes any future release by Senior Lender of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. Subordinate Lender waives to the fullest extent permitted by law, all equitable or other rights it may have in connection with the release of all or any portion of the Mortgaged Property, including any right to require Senior Lender to do any of the following:
  - (A) To conduct a separate sale of any portion of the Mortgaged Property.
  - (B) To exhaust its remedies against all or any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness.
  - (C) To proceed against Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of Borrower if Borrower is a partnership), all or any portion of the Mortgaged Property or combination of portions of the Mortgaged Property or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as Senior Lender determines.
- (ii) Subordinate Lender consents to and authorizes, at the option of Senior Lender, the sale, either separately or together, of all or any portion of the Mortgaged Property. Subordinate Lender acknowledges that without Notice to Subordinate Lender and without affecting any of the provisions of this Agreement, Senior Lender may do any of the following:
  - (A) Extend the time for or waive any payment or performance under the Senior Loan Documents.
  - (B) Modify or amend in any respect any provision of the Senior Loan Documents.
  - (C) Modify, exchange, surrender, release, and otherwise deal with any additional collateral for the Senior Indebtedness.

**6. Conflicts.** If there is any conflict or inconsistency between the terms of the Subordinate Loan Documents and the terms of this Agreement, then the terms of this Agreement will control. Borrower acknowledges that the terms and provisions of this Agreement will not, and will not be deemed to do any of the following:

- (a) Extend Borrower's time to cure any Senior Loan Default or Subordinate Loan Default.
- (b) Give Borrower the right to receive notice of any Senior Loan Default or Subordinate Loan Default, other than that, if any, provided, respectively under the Senior Loan Documents of the Subordinate Loan Documents.
- (c) Create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

**7. Rights and Obligations of Subordinate Lender Under the Subordinate Loan Documents and of Senior Lender under the Senior Loan Documents.**

(a) Insurance.

- (i) All requirements pertaining to insurance under the Subordinate Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Senior Lender.
- (ii) All original policies of insurance required pursuant to the Senior Loan Documents will be held by Senior Lender.
- (iii) Nothing in this Section 7(a) will preclude Subordinate Lender from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Mortgaged Property, provided such action does not affect the priority of payment of Loss Proceeds, or that Subordinate Lender be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Mortgaged Property.

(b) Condemnation or Casualty.

In the event of a Condemnation or a Casualty, the following provisions will apply:

- (i) The rights of Subordinate Lender (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Condemnation or a Casualty, or to participate or join in any settlement of,

or to adjust, any claims resulting from a Condemnation or a Casualty, will be and remain subordinate in all respects to Senior Lender's rights under the Senior Loan Documents, and Subordinate Lender will be bound by any settlement or adjustment of a claim resulting from a Condemnation or a Casualty made by Senior Lender.

- (ii) All Loss Proceeds will be applied either to payment of the costs and expenses of Restoration or to payment on account of the Senior Indebtedness, as and in the manner determined by Senior Lender in its sole discretion; provided however, Senior Lender agrees to consult with Subordinate Lender in determining the application of Casualty proceeds. In the event of any disagreement between Senior Lender and Subordinate Lender over the application of Casualty proceeds, the decision of Senior Lender, in its sole discretion, will prevail.
  - (iii) If Senior Lender holds Loss Proceeds, or monitors the disbursement of Loss Proceeds, Subordinate Lender will not do so. Nothing contained in this Agreement will be deemed to require Senior Lender to act for or on behalf of Subordinate Lender in connection with any Restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of Subordinate Lender, and all or any Loss Proceeds may be commingled with any funds of Senior Lender.
  - (iv) If Senior Lender elects to apply Loss Proceeds to payment on account of the Senior Indebtedness, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Indebtedness, any remaining Loss Proceeds held by Senior Lender will be paid to Subordinate Lender unless another party has asserted a claim to the remaining Loss Proceeds.
- (c) Modification of Subordinate Loan Documents. Subordinate Lender agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon Senior Lender under the Senior Loan Documents. If Subordinate Lender either (i) amends the Subordinate Loan Documents in the manner set forth above or (ii) assigns the Subordinate Loan without Senior Lender's consent then such amendment or assignment will be void ab initio and of no effect whatsoever.
- (d) Modification of Senior Loan Documents. Senior Lender may amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of or providing Notice to Subordinate Lender, and without affecting any of the

provisions of this Agreement. Notwithstanding the foregoing, Senior Lender may not modify any provision of the Senior Loan Documents that increases the Senior Indebtedness, except for increases in the Senior Indebtedness that result from advances made by Senior Lender to protect the security or lien priority of Senior Lender under the Senior Loan Documents or to cure defaults under the Subordinate Loan Documents.

- (e) Commercial or Retail Leases. If requested, Subordinate Lender will enter into attornment and non-disturbance agreements with all tenants under commercial or retail Leases, if any, to whom Senior Lender has granted attornment and non-disturbance, on the same terms and conditions given by Senior Lender.
  - (f) Consent Rights. Whenever the Subordinate Loan Documents give Subordinate Lender approval or consent rights with respect to any matter, and a right of approval or consent for the same or substantially the same matter is also granted to Senior Lender pursuant to the Senior Loan Documents or otherwise, Senior Lender's approval or consent or failure to approve or consent will be binding on Subordinate Lender. None of the other provisions of Section 7 are intended to be in any way in limitation of the provisions of this Section 7(f).
  - (g) Escrows. Except as provided in this Section 7(g), and regardless of any contrary provision in the Subordinate Loan Documents, Subordinate Lender will not collect any escrows for any cost or expense related to the Mortgaged Property or for any portion of the Subordinate Indebtedness. However, if Senior Lender is not collecting escrow payments for one or more Impositions, Subordinate Lender may collect escrow payments for such Impositions; provided that all payments so collected by Subordinate Lender will be held in trust by Subordinate Lender to be applied only to the payment of such Impositions.
  - (h) Certification. Within 10 days after request by Senior Lender, Subordinate Lender will furnish Senior Lender with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Indebtedness, confirming that there exists no default under the Subordinate Loan Documents (or describing any default that does exist), and certifying to such other information with respect to the Subordinate Indebtedness as Senior Lender may request.
- 8. Refinancing.** Subordinate Lender agrees that its agreement to subordinate under this Agreement will extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness (including reasonable and necessary costs associated with the closing and/or the refinancing, and any reasonable increase in proceeds for rehabilitation in the context of a preservation transaction). All terms and covenants of this Agreement will inure to the benefit of any holder of any such refinanced debt, and all references to the Senior Loan Documents and Senior Lender will mean, respectively, the refinance loan documents and the holder of such refinanced debt.



9. **Governmental Powers.** Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Subordinate Lender of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Mortgaged Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.

10. **Notices.**

- (a) Any Notice required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

Notices intended for Senior Lender will be addressed to:

JLL Real Estate Capital, LLC  
2177 Youngman Avenue  
St. Paul, Minnesota 55116  
Attn: Loan Servicing  
Email: loanservicing@am.jll.com

Notices intended for Subordinate Lender will be addressed to:

Clackamas County Community Development  
2051 Kaen Road  
Oregon City, Oregon 97045  
Attention: HOME Manager

- (b) Any party, by Notice given pursuant to this Section 10, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its Notices, but Notice of a change of address will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section 10.

11. **Miscellaneous Provisions.**

- (a) Assignments/Successors. This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties

to this Agreement. No other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise. This Agreement may be assigned at any time by Senior Lender to any subsequent holder of the Senior Note.

- (b) No Partnership or Joint Venture. Nothing in this Agreement or in any of the Senior Loan Documents or Subordinate Loan Documents will be deemed to constitute Senior Lender as a joint venturer or partner of Subordinate Lender.
- (c) Further Assurances. Upon Notice from Senior Lender, Subordinate Lender will execute and deliver such additional instruments and documents, and will take such actions, as are reasonably required by Senior Lender to further evidence or implement the provisions and intent of this Agreement.
- (d) Amendment. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.
- (e) Governing Law. This Agreement will be governed by the laws of the State in which the Land is located.
- (f) Severable Provisions. If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (g) Term. The term of this Agreement will commence on the date of this Agreement and will continue until the earliest to occur of the following events:
  - (i) The payment of all the Senior Indebtedness; provided that this Agreement will be reinstated in the event any payment on account of the Senior Indebtedness is avoided, set aside, rescinded or repaid by Senior Lender.
  - (ii) The payment of all the Subordinate Indebtedness other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to this Agreement.
  - (iii) The acquisition by Senior Lender or by a third-party purchaser of title to the Mortgaged Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee's sale or other exercise of a power of sale or similar disposition under the Senior Mortgage.
  - (iv) With the prior written consent of Senior Lender, without limiting the provisions of Section 4(b)(iv), the acquisition by Subordinate Lender of title to the Mortgaged Property subject to the Senior Mortgage pursuant to

a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale under) the Subordinate Mortgage.

- (h) Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
- (i) Entire Agreement. This Agreement represents the entire understanding and agreement between the parties regarding the matters addressed in this Agreement, and will supersede and cancel any prior agreements regarding such matters.
- (j) Authority. Each person executing this Agreement on behalf of a party to this Agreement represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.
- (k) No Waiver. No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.
- (l) Remedies. Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.

**[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]**

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

**SENIOR LENDER:**

**JLL REAL ESTATE CAPITAL, LLC**, a Delaware limited liability company

By: \_\_\_\_\_

Name: Heather L. Cox

Title: Closing Coordinator

STATE OF OHIO )  
 ) ss.:  
COUNTY OF DELAWARE )

On the \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned, a notary public in and for said state, personally appeared Heather L. Cox, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**SUBORDINATE LENDER:**

**CLACKAMAS COUNTY**, a political subdivision of the State of Oregon, through its Community Development Division

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OREGON )  
 ) ss.:  
COUNTY OF CLACKAMAS )

On the \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**CONSENT OF BORROWER**

Borrower acknowledges receipt of a copy of this Subordination Agreement, dated October \_\_, 2021, by and between **JLL REAL ESTATE CAPITAL, LLC** and **CLACKAMAS COUNTY** and consents to the agreement of the parties set forth in this Agreement.

**BORROWER:**

**MT. SCOTT ASSOCIATES LIMITED PARTNERSHIP,**  
an Oregon limited partnership

By: Mt. Scott Terrace, LLC,  
an Oregon limited liability company  
Its: General Partner

By: GM Mt. Scott Terrace LLC,  
an Oregon limited liability company  
Its: Manager

By: Guardian Development LLC,  
an Oregon limited liability company  
Its: Manager

By: Guardian Real Estate Services LLC,  
an Oregon limited liability company  
Its: Manager

By: Guardian Holding, Inc.,  
an Oregon corporation  
Its: Manager

By: \_\_\_\_\_  
Name: Thomas Brenneke  
Title: President

STATE OF \_\_\_\_\_ )



COUNTY OF

) ss.:  
)

On the \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned, a notary public in and for said state, personally appeared Thomas Brenneke, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL I:

The East 20 rods of:

A part of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as:

Beginning at the Southeast corner of Lot 2 of said section, being the Southeast corner of the Samuel W. McMahan Homestead, Notification No. 5746; thence West on the South line of said Lot 2, 40 rods; thence North 40 rods; thence East 40 rods to the quarter section line; thence South 40 rods to the place of beginning.

EXCEPTING THEREFROM a strip of land along the North end of said premises 150 feet in width to be cut off by a line parallel with and 150 feet South of the South line of Otty Road as it existed on September 15, 1999.

ALSO EXCEPTING THEREFROM those portions thereof lying North of the South line of the land conveyed to Clackamas County Development Agency, a political subdivision of the State of Oregon, by Warranty Deed recorded December 23, 1999 as Recorder's Fee No. 99-117404.

ALSO EXCEPTING THEREFROM those portions described by instrument in favor of Clackamas County, recorded February 1, 2011 as Recorder's Fee No. 2011-007382.

ALSO EXCEPTING THEREFROM those portions described by instrument in favor of Clackamas County, recorded May 17, 2011 as Recorder's Fee No. 2011-029478.

#### PARCEL II:

A part of Section 28, Township 1 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Southeast corner of Lot 2 of said section being the Southeast corner of the Samuel W. McMahan Homestead Notification No. 5746; thence West 330.00 feet to a 1/2 inch pipe in the South line of said Lot 2; thence North 485.8 feet to a 1/2 inch pipe which is also the Northwest corner of that certain parcel conveyed by Bertha C. Bohlman to William E. England, et ux. by Deed recorded October 29, 1952 in Book 462, Page 209, Deed Records, and the true place of beginning; thence continuing North 170.00 feet to the center of Otty Road; thence East along the center of Otty Road to an intersection with the center of S.E. 92nd Avenue marked by a 1 inch pipe; thence South 170.00 feet along the center of S.E. 92nd Avenue to the Northeast corner of the said England tract; thence West 330.00 feet to the true place of beginning.

EXCEPTING THEREFROM that portion lying North of the South line of the land conveyed to Clackamas County Development Agency, a political subdivision of the State of Oregon, by Warranty Deed recorded December 23, 1999 as Recorder's Fee No. 99-117404.

ALSO EXCEPTING THEREFROM those portions described by instrument in favor of Clackamas County, recorded February 1, 2011 as Recorder's Fee No. 2011-007382.

ALSO EXCEPTING THEREFROM those portions described by instrument in favor of Clackamas County, recorded May 17, 2011 as Recorder's Fee No. 2011-029478.

November 24, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Amendment #3 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority (OHA) for Operation as the Local Public Health Authority for Clackamas County.

Contract not to exceed \$10,352,667.14 Funding is provided by the State of Oregon.  
No County General Funds are involved.

<b>Purpose/Outcomes</b>	Amendment #3 adds \$6,727,245.14
<b>Dollar Amount and Fiscal Impact</b>	Bringing the contract maximum value to \$10,352,667.14
<b>Funding Source</b>	Funding through the State - No County General Funds are involved.
<b>Duration</b>	Effective September 1, 2021 and terminates on June 30, 2022
<b>Previous Board Action</b>	The Board previously reviewed and approved this agreement on July 22, 2021, Agenda item 072221-A8, October 14, 2021, Agenda item 20211014 A14
<b>Strategic Plan Alignment</b>	1. Funding through this Amendment allows the Clackamas County Public Health Division (CCPHD) to provide public health related services to Clackamas County residents, such as, HIV Prevention Services, Tobacco Prevention and Education, and Women's, Infants, and Children (WIC) Program 2. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	County counsel has reviewed and approved this document on October 25, 2021 KR
<b>Procurement Review</b>	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. This item is an IGA
<b>Contact Person</b>	Philip Mason-Joyner, Public Health Director – (503)742-5956
<b>Contract No.</b>	10213-03

**BACKGROUND:**

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #3 adds \$6,727,245.14 Bringing the contract maximum value to \$10,352,667.14

Per the States directive in the Amendment, this Amendment is effective September 1, 2021 and continues through June 30, 2021 regardless of the date the Amendment is fully executed.

Page 2 Staff Report  
November 24, 2021  
Agreement #10213-03

**RECOMMENDATION:**

Staff recommends the Board approval Amendment #3 to the IGA with the State of Oregon.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing, and Human Services

Agreement #169503



**THIRD AMENDMENT TO OREGON HEALTH AUTHORITY  
2021-2023 INTERGOVERNMENTAL AGREEMENT FOR THE  
FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Third Amendment to Oregon Health Authority 2021-2023 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2021, (as amended the “Agreement”), is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Clackamas County, (“LPHA”), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County. OHA and LPHA are each a “Party” and together the “Parties” to the Agreement.

**RECITALS**

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2022 (FY22) Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200;

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT**

1. This Amendment is effective on September 1, 2021, regardless of the date this amendment has been fully executed with signatures by every Party and when required, approved by the Department of Justice. However, payments may not be disbursed until the Amendment is fully executed.
2. The Agreement is hereby amended as follows:
  - a. Exhibit A “Definitions”, Section 18 “Program Element” is amended to add Program Element titles and funding source identifiers as follows:

<b>PE NUMBER AND TITLE</b> • SUB-ELEMENT(S)	<b>FUND TYPE</b>	<b>FEDERAL AGENCY/ GRANT TITLE</b>	<b>CFDA#</b>	<b>HIPAA RELATED (Y/N)</b>	<b>SUB-RECIPIENT (Y/N)</b>
<u>PE 01-08</u> COVID Wrap Direct Client Services	FF	CDC/Epidemiology and Laboratory Capacity	93.323	N	Y
<u>PE 51-03</u> ARPA WF Funding	FF	CDC/Public Health Emergency Response: Cooperative Agreement for Emergency Response: Public Health Crisis Response	93.354	N	Y

- b. Section 1 of Exhibit C of the Agreement, entitled “Financial Assistance Award” for FY22 is hereby superseded and replaced in its entirety by Attachment A, entitled “Financial Assistance Award (FY22)”, attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C.
  - c. Exhibit J of the Agreement entitled “Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200” is amended to add to the federal award information datasheet as set forth in Attachment B, attached hereto and incorporated herein by this reference.
3. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
5. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
6. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.



IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

7. Signatures.

STATE OF OREGON, ACTING BY AND THROUGH ITS OREGON HEALTH AUTHORITY

Signature: \_\_\_\_\_

Name: /for/ Carole L. Yann

Title: Director of Fiscal and Business Operations

Date: \_\_\_\_\_

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

*Approved by Wendy Johnson, Senior Assistant Attorney General on July 27, 2021. Copy of emailed approval on file at OHA, OC&P.*

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

Signature: \_\_\_\_\_

Name: Derrick Clark (or designee)

Title: Program Support Manager

Date: \_\_\_\_\_

Approved as to form *Kathleen Rastetter* 10/25/2021  
for Clackamas County

**Attachment A  
Financial Assistance Award (FY22)**

<b>State of Oregon Oregon Health Authority Public Health Division</b>		
<b>1) Grantee</b> Name: Clackamas County  Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip: 97045-4035	<b>2) Issue Date</b> Wednesday, September 1, 2021	<b>This Action</b> Amendment
	<b>3) Award Period</b> From July 1, 2021 through June 30, 2022	

<b>4) OHA Public Health Funds Approved</b>				
<b>Number</b>	<b>Program</b>	<b>Previous Award Balance</b>	<b>Increase / Decrease</b>	<b>Current Award Balance</b>
PE01-01	State Support for Public Health	\$126,639.00	\$379,697.00	\$506,336.00
PE01-07	ELC ED Contact Tracing	\$0.00	\$0.00	\$0.00
PE01-08	COVID Wrap Direct Client Services	\$0.00	\$19,724.87	\$19,724.87
PE01-09	COVID-19 Active Monitoring - ELC	\$0.00	\$3,791,764.12	\$3,791,764.12
PE01-10	OIP - CARES	\$583,218.00	\$1,244,678.15	\$1,827,896.15
PE02	Cities Readiness Initiative	\$42,123.00	\$0.00	\$42,123.00
PE07	HIV Prevention Services	\$134,973.00	\$0.00	\$134,973.00
PE12-01	Public Health Emergency Preparedness and Response (PHEP)	\$162,291.00	\$0.00	\$162,291.00
PE13-01	Tobacco Prevention and Education Program (TPEP)	\$416,803.00	\$0.00	\$416,803.00
PE40-01	WIC NSA: July - September	\$199,234.00	\$0.00	\$199,234.00
PE40-02	WIC NSA: October - June	\$579,703.00	\$0.00	\$579,703.00
PE40-03	BFPC: July - September	\$19,101.00	\$0.00	\$19,101.00
PE40-04	BFPC: October - June	\$57,302.00	\$0.00	\$57,302.00
PE40-05	Farmer's Market	\$8,924.00	\$0.00	\$8,924.00

<b>4) OHA Public Health Funds Approved</b>				
<b>Number</b>	<b>Program</b>	<b>Previous Award Balance</b>	<b>Increase / Decrease</b>	<b>Current Award Balance</b>
PE42-03	MCAH Perinatal General Funds & Title XIX	\$10,975.00	\$0.00	\$10,975.00
PE42-04	MCAH Babies First! General Funds	\$35,071.00	\$0.00	\$35,071.00
PE42-06	MCAH General Funds & Title XIX	\$20,592.00	\$0.00	\$20,592.00
PE42-11	MCAH Title V	\$117,810.00	\$0.00	\$117,810.00
PE42-12	MCAH Oregon Mothers Care Title V	\$9,482.00	\$0.00	\$9,482.00
PE43-01	Public Health Practice (PHP) - Immunization Services	\$92,665.00	\$0.00	\$92,665.00
PE43-06	CARES Flu	\$0.00	\$0.00	\$0.00
PE44-01	SBHC Base	\$300,000.00	\$0.00	\$300,000.00
PE44-02	SBHC - Mental Health Expansion	\$373,500.00	\$0.00	\$373,500.00
PE46-05	RH Community Participation & Assurance of Access	\$46,174.00	\$0.00	\$46,174.00
PE50	Safe Drinking Water (SDW) Program (Vendors)	\$176,970.00	\$0.00	\$176,970.00
PE51-01	LPHA Leadership, Governance and Program Implementation	\$71,833.00	\$909,261.00	\$981,094.00
PE51-03	ARPA WF Funding	\$0.00	\$382,120.00	\$382,120.00
PE62	Overdose Prevention-Counties	\$40,039.00	\$0.00	\$40,039.00
		\$3,625,422.00	\$6,727,245.14	\$10,352,667.14

<b>5) Foot Notes:</b>	
PE01-01	5/1/21: Bridge funding for July-Sept 2021. Additional funds to be awarded once budgets are final.
PE01-01	9/1/21: Prior comment null and void. Funding is now for FY22 7/1/2021-6/30/2022.
PE01-07	9/1/2021: Funds are available 07/01/2021 - 06/30/2023
PE01-08	9/1/2021: Funds are available 07/01/2021 - 06/30/2023
PE01-09	9/1/2021: Funds are available 7/1/2021 - 06/30/2023
PE01-10	Awarded funds can be spent on allowable costs for the period of 7/1/2021 - 6/30/2024. Any unspent funds as of 6/30/22 will be rolled over into the FY23 award. Please see provided budget guidance for more details on roll over information.
PE40-01	5/2021: All SFY2022 Q1 funding award needs to be spent down by 9/30/2021. No unspent funds carryover to Q2-4 period is allowed.
PE40-02	5/2021: SFY2022 Q2-4 funds need to be spent by 6/30/2022.
PE40-03	SFY2022 WIC BFPC grant amount is to be spent by 9/30/2021. Unspent amount is not allowed to be carried over to the following period.
PE40-04	SFY2022 WIC BFPC grant amount is to be spent by 6/30/2022. Unspent amount is not allowed to be carried over to the following period.
PE40-05	7/2021: Funds will be paid in two installments in August and October of 2021.
PE43-06	9/1/2021: Activities funded under PE43-06 are the same as PE01-10. Please use PE43-06 funds first and if possible, use by 6/30/2022. No additional funds will be added to PE43-06. Current FY22 awards are a rollover of unspent FY21 awards.
PE51-01	5/1/21: Bridge funding for July-Sept 2021. Additional funds to be awarded once budgets are final.
PE51-01	9/1/21. Prior comment null and void. Award is for FY22 7/1/2021-6/30/2022.

<b>6) Comments:</b>	
PE01-08	9/2021: Rollover of unspent FY21 award to FY22
PE01-09	9/2021: Rollover of unspent funds from FY21 to FY22
PE01-10	9/2021: Rollover of Unspent funds 1,244,678.15 from FY21 to FY22
PE02	7/2021: Award increase
PE13-01	07/2021: increase award from 310,126 by 106,677 to 416,803
PE40-01	5/2021: SFY22 Q1 funding: Spend \$39,847 on Nutrition Ed, \$6,245 on BF Promotion
PE40-02	5/2021: SFY2022 Q2-4 funding: spend \$115,941 on Nutrition Ed, \$18,736 on BF Promotion
PE40-03	07/2021: SFY2022 Q1 funding
PE40-04	07/2021: SFY2022 Q2-4 grant award
PE40-05	07/2021: WIC FDNP Season 2021. Funds must be spent by 12/31/2021.
PE44-02	7/2021: Funding for 21-23 Youth-Led Grants
PE51-01	9/2021: added funding for FY22
PE62	08/2021: Prior comment null and void. \$12,584 available September 1- 30, 2021 only. \$27,455 must be spent between July 1-August 31, 2021 only and is not eligible for carry forward; 5/2021: This award is for July 1-August 31, 2021 only.

**7) Capital outlay Requested in this action:**  
 Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.

Program	Item Description	Cost	PROG APPROV	

**Attachment B**

**Information required by CFR Subtitle B with guidance at 2 CFR Part 200**

**PE01-08 COVID Wrap Direct Client Services**

Federal Award Identification Number:	NU50CD000541
Federal Award Date:	5/18/2020
Budget Performance Period:	08/01/2019-07/31/2024
Awarding Agency:	CDC
CDFA Number:	93.323
CFDFA Name:	Epidemiology and Laboratory Capacity
Total Federal Award:	98,897,708
Project Description:	Epidemiology and Laboratory Capacity
Awarding Official:	Brownie Anderson-Rana
Indirect Cost Rate:	17.64%
Research and Development (T/F):	FALSE
PCA:	53868
Index:	50401

Agency	DUNS No.	Amount	Grand Total:
Clackamas	096992656	\$19,724.87	\$19,724.87

**PE01-09 COVID-19 Active Monitoring - ELC**

Federal Award Identification Number:	NU50CK000541
Federal Award Date:	01/13/2021
Budget Performance Period:	08/01/2019-07/31/2024
Awarding Agency:	CDC
CDFA Number:	93.323
CFDFA Name:	Oregon 2020 Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC)
Total Federal Award:	348,002,156
Project Description:	Epidemiology and Laboratory Capacity for Infectious Diseases (ELC)
Awarding Official:	Mrs. Janice Downing
Indirect Cost Rate:	17.64%
Research and Development (T/F):	FALSE
PCA:	53708
Index:	50401

Agency	DUNS No.	Amount	Grand Total:
Clackamas	096992656	\$3,791,764.12	\$3,791,764.12



### PE01-10 OIP - CARES

Federal Award Identification Number:	NH23IP922626	
Federal Award Date:	01/15/2021	3/31/21
Budget Performance Period:	7/1/2019-6/30/2024	7/1/2019-6/30/2024
Awarding Agency:	CDC	CDC
CDFA Number:	93.268	93.268
CFDFA Name:	Immunization Cooperative Agreements	Immunization Cooperative Agreements
Total Federal Award:	38,110,851	38,627,576
Project Description:	Immunization and Vaccines for Children	Immunization and Vaccines for Children
Awarding Official:	Divya Cassity	Divya Cassity
Indirect Cost Rate:	17.64	17.64
Research and Development (T/F):	FALSE	FALSE
PCA:	53120	53895
Index:	50404	50404

Agency	DUNS No.	Amount	Amount	Grand Total:
Clackamas	096992656	\$1,244,678.15	\$583,218.00	\$1,827,896.15

### PE51-03 ARPA WF Funding

Federal Award Identification Number:	NU90TP922194
Federal Award Date:	5/19/2021
Budget Performance Period:	07/01/2021-06/30/2023
Awarding Agency:	CDC
CDFA Number:	93.354
CFDFA Name:	Public Health Emergency Response: Cooperative Agreement for Emergency Response: Public Health Crisis Response
Total Federal Award:	25,667,917
Project Description:	Public Health Emergency Response: Cooperative Agreement for Emergency Response: Public Health Crisis Response
Awarding Official:	Sylvia Reeves
Indirect Cost Rate:	17.64%
Research and Development (T/F):	FALSE
PCA:	50272
Index:	50107

Agency	DUNS No.	Amount	Grand Total:
Clackamas	096992656	\$382,120.00	\$382,120.00

November 24, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval to accept funding from Oregon Health Authority (OHA) for Elimination of Behavioral Health Inequities. Funding agreement is for \$50,000.  
No County General Funds are involved.

<b>Purpose/Outcomes</b>	Identify the current behavioral health inequities in services for people with behavioral health needs and make recommendations for how best invest the funds from the appropriation. Develop a plan to invest available funds and increase culturally and linguistically appropriate residential treatment and housing capacity.
<b>Dollar Amount and Fiscal Impact</b>	The maximum agreement value is \$50,000. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	Oregon Health Authority (OHA)
<b>Duration</b>	Effective upon execution of the Grant Agreement and terminates on June 30, 2022
<b>Previous Board Action</b>	October 14, 2021 A.4: Approval to Apply
<b>Strategic Plan Alignment</b>	1. Improve community safety and health 2. Ensure safe, healthy and secure communities by investing funds to expand Behavioral Health services to the citizens of Clackamas County
<b>Counsel Review</b>	1. 10/27/21 2. KR
<b>Procurement Review</b>	1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 2. This is a direct procurement of a grant award.
<b>Contact Person</b>	Deborah Cockrell, Health Centers Division Director – 503-742-5495
<b>Contract No.</b>	10357

**BACKGROUND:**

*Healthy Families. Strong Communities.*

Page 2 Staff Report  
November 24, 2021  
Contract # 10357

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval to accept award 172812 from the Oregon Health Authority (OHA). Health Centers-Behavioral Health has partnered with Oregon Health Equity Alliance to complete an organizational racial assessment, the Barhii. This assessment will help guide areas of strength and need within the organization. Funds will offset the cost of time for steering committee members who will meet and organize this work and also those who are facilitating focus groups.

The award has a maximum value of \$50,000. It is effective upon execution of the grant agreement and terminates June 30, 2022.

**RECOMMENDATION:**

Staff recommends the Board approval.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing and Human Services

#10357



**Grant Agreement Number 172812**

**STATE OF OREGON  
INTERGOVERNMENTAL GRANT AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Oregon Health Authority, hereinafter referred to as "OHA," and

**Clackamas County  
Acting by and through its Clackamas Health Centers  
2051 Kaen Road, Suite 367  
Oregon City, Oregon 97045  
Attention: Emily Ketola  
Telephone: (503) 722-6258  
E-mail address: [eketola@clackamas.us](mailto:eketola@clackamas.us)**

hereinafter referred to as "Recipient."

The Program to be supported under this Agreement relates principally to OHA's

**Health Systems Division  
500 Summer Street NE E86  
Salem, Oregon 97301-1118  
Agreement Administrator: George Carrillo or delegate  
Telephone: (503) 930-5230  
E-mail address: [george.carrillo@dhsaha.state.or.us](mailto:george.carrillo@dhsaha.state.or.us)**

**1. Effective Date and Duration.**

This Agreement shall become effective on the date this Agreement has been fully executed by every party and, when required, approved by Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2022**, exclusive of reporting requirements which are due no later than August 15, 2022. Agreement termination shall not extinguish or prejudice OHA's right to enforce this Agreement with respect to any default by Recipient that has not been cured.

**2. Agreement Documents.**

**a.** This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Program Description
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit B: Standard Terms and Conditions
- (4) Exhibit C: Subcontractor Insurance Requirements
- (5) Exhibit D: Recipient's Proposal

There are no other Agreement documents unless specifically referenced and incorporated in this Agreement.

**b.** 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 documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits B, A, D and C.

**3. Grant Disbursement Generally.**

The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$50,000.00**. OHA will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. OHA will disburse the grant to Recipient as described in Exhibit A.

**4. Contractor or Subrecipient Determination.**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, OHA's determination is that:

Recipient is a subrecipient    Recipient is a contractor    Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: N/A

**5. Recipient Data and Certification.**

**a. Recipient Information.** Recipient shall provide the information set forth below.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**Recipient Name (exactly as filed with the IRS):** COUNTY OF CLACKAMAS, OREGON

Street address: 2051 KAEN RD

City, state, zip code: OREGON CITY, OR 97045

Email address: DCKRELL@CLACKAMAS.US

Telephone: ( 503 ) 742-5495 Facsimile: ( 503 ) 742-5979

**Proof of Insurance:** Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein and required by Exhibit C, must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: SELF-INSURED

Policy #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**b. Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the undersigned hereby certifies under penalty of perjury that:

(1) Recipient is in compliance with all insurance requirements in Exhibit C of this Agreement and notwithstanding any provision to the contrary, Recipient shall deliver to the OHA Contract Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance within 30 days of execution of this Agreement. By certifying compliance with all insurance as required by this Agreement, Recipient acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. Recipient may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;

(2) Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Recipient further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against



the Recipient;

- (3) The information shown in this Section 5a. "Recipient Information", is Recipient's true, accurate and correct information;
- (4) To the best of the undersigned's knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (5) Recipient and Recipient's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (6) Recipient is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/portal/public/SAM/>;
- (7) Recipient is not subject to backup withholding because:
  - (a) Recipient is exempt from backup withholding;
  - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- (8) Recipient Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Recipient is required to provide OHA with the new FEIN within 10 days.

**RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**6. Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

**Clackamas County  
Acting by and through its Clackamas Health Centers  
By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**State of Oregon acting by and through its Oregon Health Authority  
By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved by OHA, Health Systems Division  
By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

Not required per OAR 137-045-0030(1)(a).

## **EXHIBIT A**

### **Program Description**

#### **1. Background.**

In partnership with communities, OHA is transforming Oregon's behavioral health system. Recipient will partner with OHA to work towards the goals of eliminating health inequities by 2030. Governor Brown and the Oregon Legislature have taken action to support this work. The 2021 Oregon Legislature in HB 5024 (Regular Session 2021) appropriated \$130 million to support regional community investments that will ensure people with behavioral health service needs have culturally and linguistically appropriate housing and residential service options.

#### **2. Purpose.**

These funds awarded under this Grant Agreement will support partnerships among community-based organizations, counties, Coordinated Care Organizations (CCOs), and other entities to identify the current gaps in housing and facility-based residential services for people with behavioral health needs and make recommendations for how to best invest the funds from the appropriation. OHA will work in consultation with the grantees, other community members, Oregon Housing and Community Services, and OHA's advisory councils to develop a plan to invest available funds and increase culturally and linguistically appropriate residential treatment and housing capacity.

#### **3. Allowable Activities.**

Recipient will provide the following Grant Activities under this Agreement:

- a.** Grant funds will be used on promoting collaboration and planning to increase behavioral health residential treatment and housing capacity among individuals and groups experiencing inequities in access to health care resources. Recipient will follow Recipient's Proposal, as identified in Exhibit D.
- b.** Provide access to interpretation services. Recipient shall work with the OHA Agreement Administrator if Recipient does not have staff that fluently speak the language of an eligible individual, including qualified sign language interpreters for individuals who are deaf or hard of hearing and whose preferred mode of communication is sign language.
- c.** Provide documents in alternate languages and formats, including accessible electronic formats, braille documents, and large print upon request. If Recipient does not have access to such languages or formats, then Recipient can request them from OHA by contacting the OHA Agreement Administrator.

- d. Participate in meetings with OHA, as requested, to share lessons learned and recommendations.

#### 4. Reporting Requirements.

Recipient shall electronically submit the following report to the OHA Agreement Administrator listed on page 1 of this Agreement, with a CC to [AMHcontract.Administrator@dhsoha.state.or.us](mailto:AMHcontract.Administrator@dhsoha.state.or.us):

- a. **Progress Report.** Recipient shall provide two progress reports, which include at a minimum a summary of efforts and outcomes, outcome data, and/or project updates in relation to ensuring people with behavioral health service needs have culturally and linguistically appropriate housing and residential service options within the state of Oregon.
  - i. The first progress report is due no later than December 31, 2021.
  - ii. The second progress report should build on the first progress report and is due no later than April 30, 2022.
- b. **Recommendation Report.** Recipient shall provide a final Recommendation Report, which includes at a minimum, a summary of all efforts and outcomes, outcome data, and/or project updates in relation to ensuring people with behavioral health service needs have culturally and linguistically appropriate housing and residential service options within the state of Oregon, which is due no later than August 15, 2022.
- c. **Expenditure Attestation.** Recipient shall provide the attestation referenced in Exhibit A, Part 2, Section 1.c. of this Grant Agreement no later than August 15, 2022.

## EXHIBIT A

### Part 2

#### Payment and Financial Reporting

##### 1. Payment and Financial Reporting.

- a. OHA no longer issues paper checks. To receive grant funding, Recipient must enroll in Electronic Funds Transfer (EFT), also known as direct deposit. To enroll, Recipient must submit a completed Direct Deposit Authorization Form found at: <https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/me0189.docx>. If Recipient already has EFT set up for any type of payment that comes from the Oregon Department of Human Services (ODHS) or OHA, Recipient should not send in another form. Recipient may contact the EFT Coordinator at (503) 945-5710 for technical assistance. Due to the confidential nature of bank account information, Recipient should only provide bank information to the EFT Coordinator or OHA Financial Services.
- b. OHA will grant funds on the following schedule:
  - i. Upon execution of this Grant Agreement, OHA will initiate the direct deposit of **\$50,000.00** to Recipient for the Grant Activities listed in Exhibit A, Part 1.
- c. Recipient shall ensure that all funding provided under this Agreement is spent by June 30, 2022. An attestation of such funds must be sent to the OHA email box at [amhcontract.administrator@dhsoha.state.or.us](mailto:amhcontract.administrator@dhsoha.state.or.us) by August 15, 2022, or to any other address as OHA may indicate in writing to Recipient, in a format prescribed by OHA.

##### 2. Travel and Other Expenses.

OHA will not reimburse Recipient separately for any travel or other expenses under this Agreement.

## **EXHIBIT B**

### **Standard Terms and Conditions**

**1. 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 OHA or any other agency or department of the State of Oregon, or both, 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 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 the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. 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. This Section shall survive expiration or termination of this Agreement.

**2. Compliance with Law.**

Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.

**3. Independent Parties.**

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

**4. Grant Funds; Payments.**

**a.** Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that OHA's participation in this Agreement is contingent on OHA receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to participate in this Agreement.

**b.** Disbursement Method. Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other OHA Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, Recipient must provide its taxpayer identification number (TIN)



and other necessary banking information to receive EFT payment. Recipient must maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. Recipient must provide this designation and information on a form provided by OHA. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any payment made using EFT procedures, Recipient will provide the changed information or designation to OHA on a OHA-approved form.

**5. Recovery of Overpayments.**

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 (“Unexpended Funds”) on the earlier of termination or expiration of this Agreement must be returned to OHA. Recipient shall return all Misexpended Funds to OHA promptly after OHA’s written demand and no later than 15 days after OHA’s written demand. Recipient shall return all Unexpended Funds to OHA within 14 days after the earlier of termination or expiration of this Agreement. OHA, in its sole discretion, may recover Misexpended or Unexpended Funds by withholding from payments due to Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 14 of this Exhibit.

**6. Ownership of Work Product. Reserved.**

**7. 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 a party (the "Notified Party") with respect to which the other party ("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. Either 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 paragraph and 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 liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the Recipient (or would be if joined in the Third Party Claim ), the 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 the 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 the State on the one hand and of the 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. The State'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.

With respect to a Third Party Claim for which the Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), the 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 the State in such proportion as is appropriate to reflect the relative fault of the Recipient on the one hand and of the 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 the Recipient on the one hand and of the 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. The Recipient'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.

This Section shall survive expiration or termination of this Agreement.

## **8. Indemnification by Subcontractors.**

Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to 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 Recipient's 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. This Section shall survive expiration or termination of this Agreement.

## **9. Default; Remedies; Termination.**

**a. Default by Recipient.** Recipient shall be in default under this Agreement if:

- (1) Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- (2) Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by OHA to measure compliance with this Agreement, the expenditure of disbursements or the desired outcomes by Recipient is untrue in any material respect when made;

- (3) Recipient (1) 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, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) 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 (8) takes any action for the purpose of effecting any of the foregoing; or
- (4) A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (3) similar relief in respect to Recipient 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 Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

**b.** OHA's Remedies for Recipient's Default. In the event Recipient is in default under Section 9.a., OHA 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:

- (1) termination of this Agreement under Section 9.c.(2);
- (2) withholding all or part of monies not yet disbursed by OHA to Recipient;
- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments under Section 5. of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and OHA may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Recipient was not in default under Section 9.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 9.c.(1).

**c.** Termination.

- (1) OHA's Right to Terminate at its Discretion. At its sole discretion, OHA may terminate this Agreement:

- (a) For its convenience upon 30 days' prior written notice by OHA to Recipient;
  - (b) Immediately upon written notice if OHA fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program; or
  - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that OHA's support of the program under this Agreement is prohibited or OHA is prohibited from paying for such support from the planned funding source.
  - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any person receiving funds or benefitting from services under this Agreement "OHA Client", including any Medicaid Eligible Individual, under its care.
- (2) OHA's Right to Terminate for Cause. In addition to any other rights and remedies OHA may have under this Agreement, OHA may terminate this Agreement immediately upon written notice to Recipient, or at such later date as OHA may establish in such notice if Recipient is in default under Section 9.a.
- (3) Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (4) Return of Property. Upon termination of this Agreement for any reason whatsoever, Recipient shall immediately deliver to OHA all of OHA's property that is in the possession or under the control of Recipient at that time. This Section 9.c.(4) survives the expiration or termination of this Agreement.
- (5) Effect of Termination. Upon receiving a notice of termination of this Agreement or upon issuing a notice of termination to OHA, Recipient shall immediately cease all activities under this Agreement unless, in a notice issued by OHA, OHA expressly directs otherwise.

## **10. Insurance.**

All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

## **11. Records Maintenance, Access.**

Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and

writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that OHA and the Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:

- a. Six years following final payment and termination of this Agreement;
- b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
- c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

## **12. Information Privacy/Security/Access.**

If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants Recipient or its subcontractor(s) access to such OHA Information Assets or Network and Information Systems, Recipient shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.

## **13. Assignment of Agreement, Successors in Interest.**

- a. Recipient shall not assign or transfer its interest in this Agreement without prior written consent of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by OHA. No approval by OHA of any assignment or transfer of interest shall be deemed to create any obligation of OHA in addition to those set forth in this Agreement.
- b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

## **14. Resolution of Disputes.**

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. This Section shall survive expiration or termination of this Agreement.

**15. Subcontracts.**

Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without OHA's prior written consent. In addition to any other provisions OHA may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that OHA will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 15, 16, and 17 of this Exhibit B. OHA's consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.

**16. No Third Party Beneficiaries.**

OHA 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, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This Section shall survive expiration or termination of this Agreement.

**17. 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 shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.

**18. Notice.**

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, e-mail, or mailing the same, postage prepaid to Recipient or OHA at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day if transmission was outside normal business hours of the Recipient. Notwithstanding the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

**OHA:** Office of Contracts & Procurement



635 Capitol Street NE, Suite 350  
Salem, OR 97301  
Telephone: 503-945-5818  
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

**19. Headings.**

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

**20. Amendments; Waiver; Consent.**

OHA may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, the Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The 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. This Section shall survive the expiration or termination of this Agreement.

**21. Merger Clause.**

This Agreement 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.

**22. Limitation of Liabilities.**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

## EXHIBIT C

### SUBCONTRACTOR INSURANCE

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

#### 1. WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

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

#### 2. COMMERCIAL GENERAL LIABILITY:

Required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of

not less than \$1,000,000.00 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.00.

**3. PROFESSIONAL LIABILITY:**

**Required**    **Not required**

**Professional Liability insurance** covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000.00 per claim. Annual aggregate limit shall not be less than \$2,000,000.00. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

**4. EXCESS/UMBRELLA INSURANCE:**

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

**5. ADDITIONAL COVERAGE REQUIREMENTS:**

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

**6. ADDITIONAL INSURED:**

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

**7. WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the OHA or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the OHA has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**8. TAIL COVERAGE:**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, 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 this Subcontract, for a minimum of 24

months following the later of (i) Contractor's completion and Recipient's acceptance of all Services required under this Subcontract, or, (ii) Recipient's or Contractor termination of contract, or, (iii) The expiration of all warranty periods provided under this Subcontract.

**9. CERTIFICATE(S) AND PROOF OF INSURANCE:**

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

**10. NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 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).

**11. INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by OHA under this agreement and to provide updated requirements as mutually agreed upon by Contractor and OHA.

**12. STATE ACCEPTANCE:**

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

## Exhibit D Recipient's Proposal



**CLACKAMAS**  
Health Centers

*Deborah Cockrell, Director*

**Subrecipient**  
Panda Service Building  
2051 Kaen Road, Suite 367  
Oregon City, OR 97059-4052  
503-722-6258

**Part 1: Clackamas County Health Centers – OHA-RFA-5250**

---

**Seaside Health Center**  
110 Seaside Road  
Oregon City, OR 97059-4071  
503-655-8171

**Please fill in the following information for your Organization and provide with your application:**

**Stoneydale Health Center**  
1100 Stoneydale Road, Suite 200  
Clackamas, OR 97015-3722  
503-655-8171

**Tribe/Organization Name:** County of Clackamas, Oregon

**Organization Name DBA (if different from above):** \_\_\_\_\_

**Waldman Health Center**  
2051 Portland Avenue  
Waldman, OR 97137-1430  
503-655-8171

**Fiscal Sponsor Organization Name (if applicable):**

Clackamas Health Centers

**Seaside Health Center**  
21000 SE 3rd Street  
Seaside, OR 97138-1846  
503-465-6151

**Address:** 2051 Kaen Road, Suite 367 Oregon City, OR 97045

**Tax ID, EIN or FIN:** 93-6002386

**Waldman Health Center**  
1800 Waldman Court  
Oregon City, OR 97059-4051  
503-655-8171

**Contact Name:** Emily Ketola

**Contact email and phone:** Eketola@clackamas.us and 503-722-6258

**Seaside Health Center**  
1100 Seaside Road  
Oregon City, OR 97059-4071  
503-655-8171

**Authorized signature name:** Deborah Cockrell

**Authorized signature email:** DCockrell@clackamas.us

**Seaside Health Center**  
1100 Seaside Road  
Oregon City, OR 97059-4071  
503-655-8171

**County (ies) Served (only one Proposal is required for multiple Counties):**

Clackamas County

**Seaside Health Center**  
1100 Seaside Road  
Oregon City, OR 97059-4071  
503-655-8171



Deborah Cockrell, Director

Administration  
Public Service Building  
100 State Street, Suite 307  
Salem, OR 97301-2000  
503-753-5300

September 1, 2021

Westwood Health Center  
110 Westwood Road  
Salem, OR 97301-4220  
503-491-8171

Coral Ford  
Procurement and Contract Specialist 3  
OHA Office of Contracts and Procurement

Stangorville Health Center  
Stangorville Blvd Suite 300  
Sedwaka, OR 97131-0710  
503-463-8171

635 Capitol Street NE, Suite 330  
Salem, OR 97301

Waldman Health Clinic  
1001 Portland Avenue  
Salem, OR 97301-1400  
503-594-0800

RE: Letter of Intent to access grant funding offered via Request for Grant Proposals  
OHA-RFA-5250, OregonBuys S-44300-00000496

Steady Health Clinic  
2140 SE Hill Street  
Salem, OR 97302-1508  
503-463-8171

Part 2: Clackamas County Health Centers – OHA-RFA-5250

Willing Behavioral  
Health Clinic  
480 Liberty Court  
Salem, OR 97301-0500  
503-491-8100

Clackamas Health Centers is seeking grant funding to support the elimination of behavioral health inequities. Clackamas Health Centers – Behavioral Health has collaborated with Oregon Health Equity Alliance (OHEA) to complete an organizational racial equity assessment, the Berhii. This assessment will help guide areas of strength and need within our organization as determined by many voices, including those who are consumers of our services. The data will be analyzed and ultimately will produce action items to focus on to address health equity.

Harvest Behavioral  
Health Clinic  
1102 Liberty Court  
Salem, OR 97301-0500  
503-463-8100

The Berhii assessment includes providing a survey to all of our Behavioral Health staff as well as management. We will be surveying community partners, 10-20 different agencies, including but not limited to: Clackamas Women's Services (Domestic violence), Health Centers Primary care and Dental Services, Folktime (peer support), Community corrections, CSAP, County jail, DHS, Zero Suicide initiative, Older Adult initiative and program liaison, Vocation Rehabilitation, and Clackamas County Equity and Inclusion Office. We have built numerous collaborations with community partners over the years to provide the most supportive services to our community members and these partners will have a keen perspective on the work we do to address racial inequities.

Steady Behavioral  
Health Clinic  
1001 Nevada Boulevard  
PO Box 1100  
Salem, OR 97301-0100  
503-722-4900

East Street Health Centers  
Oregon City High School  
10700 S. Shaw street, Blvd  
Salem, OR 97140-0100  
503-763-8170

Van Duzen High School  
8901 SE Vanhook Rd  
Hood River, OR 97107-2100  
503-722-4900

Steady High School  
2140 SE Hill Street  
Salem, OR 97302-1508  
503-463-8171

We will also survey clients (100-200 clients) with lived experience of managing behavioral health symptoms. Clients who respond will be receiving a range of

services including mental health services, substance use treatment, co-occurring treatment, medication management, Supported Employment, peer services, and individual/ family/ group therapy. Clients will be part of an array of our programs including Child and Family, Community Support team which services individuals with SPMI, Adult Mental Health, Adult and Adolescent Substance Use and Specialty Court programs. We will also be facilitating focus groups (approximately 1-2 hours in length) for all Behavioral Health staff to gather more narrative accounts of their experiences in their work and with clients.

There has been a strong push for action around equity and inclusion within Behavioral Health work and this assessment provides a strong framework to guide discussion and next steps that uses immediate data and voice of those we serve and those we work with. This assessment requires significant time for preparation and completion. Our contract with Oregon Health Equity Alliance has been for support with aligning our assessment with a previously completed racial justice charter and consulting on roll out of the assessment. However the actual assessment work is being completed by staff, who already hold other jobs and are integrating this necessary work in to their current positions. I would like to request that we use this grant funding to offset the cost of time for steering committee members who have been meeting and organizing this work and also those who are facilitating focus groups. The steering committee is made up of 3 members who have regular meetings and also who complete work outside of meetings. I would also like to request funding to provide food to clients who complete the surveys. This could be in the form of actual food on site or gift cards if they are completing these virtually. Client voice is imperative to our data and we want to show our value in clients taking the time to share honest feedback about their experiences in our services. The remaining funds would be utilized to contract with Oregon Health Equity Alliance or other EDI focused contractors to assist with analysis of BarHii results, action steps planning to operationalize the recommendations and additional training opportunities for staff in this important work.

Our community deserves for our behavioral health services to place action to voice. We have an anti-racist belief and approach to the work and are prepared to make practical changes so this is experienced at all levels of our services and work.

Proposed Budget:

Personnel	Hourly Cost	Total Hours	Total Cost
Montiel,Damariz O	\$ 54.05	87	\$ 4,702.08
Ketola,Emily	\$ 98.66	45	\$ 4,439.58
Joslin,Amy	\$ 72.47	45	\$ 3,261.06
<b>Total Personnel</b>			<b>\$12,402.73</b>
<b>Supplies/Incentives</b>			
Gift Cards	\$ 15.00	200	\$ 3,000.00
Training			\$ 14,600.00
Contract-OHEA			\$ 20,000.00
<b>Total Supplies/Incentives</b>			<b>\$37,600.00</b>
<b>Total Cost</b>			<b>\$50,002.73</b>



**Confidential**  
**CONTRACTOR TAX IDENTIFICATION INFORMATION**  
**For Accounting Purposes Only**

The State of Oregon requires contractors to provide their Federal Employer Identification Number (FEIN) or Social Security Number (SSN). This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(2). Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws. The State of Oregon may report this information to the Internal Revenue Service (IRS). Contractors must keep this information current at all times. Contractors are required to notify the State of Oregon contract administrator within 10 business days if this information changes. The State of Oregon reserves the right to ask contractors to update this information at any time during the document term.

**Document number:** \_\_\_\_\_

Legal name *(tax filing)*: \_\_\_\_\_

DBA name *(if applicable)*: \_\_\_\_\_

Billing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

FEIN: \_\_\_\_\_

**- OR -**

SSN: \_\_\_\_\_

November 24, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the Gladstone School District to embed a Mental Health Specialist at Gladstone High School. Contract not to exceed \$61,521 for one year. This is a revenue agreement.

No County General Funds are involved.

<b>Purpose/Outcomes</b>	The purpose of this agreement is to embed a Mental Health Specialist at Gladstone School District to provide mental health and behavioral health services.
<b>Dollar Amount and Fiscal Impact</b>	This is a revenue agreement for \$61,521.00
<b>Funding Source</b>	No County funds. This is a revenue agreement with Gladstone School District.
<b>Duration</b>	Upon signature – June 30, 2022
<b>Previous Board Action</b>	No previous board action.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Individuals and families in need are healthy and safe.</li> <li>2. Ensure safe, healthy and secure communities by providing mental and behavioral health services to students at Gladstone High School.</li> </ol>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. November 8, 2021</li> <li>2. KR</li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></li> <li>2. Original contract amount was direct procurement.</li> </ol>
<b>Contact Person</b>	Deborah Cockrell, Health Center Director – 503-742-5495
<b>Contract No.</b>	10399

**BACKGROUND:**

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of Intergovernmental agreement #10399 with Gladstone School District. CCHCD will provide behavioral health staff to be located at Gladstone High School approximately 2.5 days a week during the school year. The work the behavioral health staff will be doing is three-fold. They will be providing consultation and education for school counselors and staff, screening and coordination of care for students, and providing direct behavioral health therapy.

CCHCD will receive \$61,521.00 from Gladstone School District under this agreement. This agreement is effective upon signature and will terminate June 30, 2022.

*Healthy Families. Strong Communities.*

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

Clackamas.us/h3s

**RECOMMENDATION:**

Staff recommends approval of agreement.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing & Human Services Department

#10399

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN CLACKAMAS COUNTY  
AND GLADSTONE SCHOOL DISTRICT**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County, acting by and through its Health Centers Division (CHCD) ("County"), a political subdivision of the State of Oregon, and Gladstone School District (GSD) ("Agency"), an Oregon municipal corporation, collectively referred to as the "Parties" and each a "Party."

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

*The County desires to contract with the Agency to embed a Mental Health Specialist 2 at Gladstone High School to provide mental health and behavioral health services.*

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or June 30, 2022, whichever is sooner.
2. **Scope of Work.** The County agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The Agency agrees to pay County, from available and authorized funds, a sum not to exceed sixty one thousand five hundred twenty one dollars (\$61,521.00) for accomplishing the Work required by this Agreement.
4. **Payment.** Agency shall pay County \$61,521.00 upon receipt of the signed agreement. Payment shall be submitted to:

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

5. **Representations and Warranties.**
  - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
  - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.

- C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**6. Termination.**

- A. Either the County or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either the County or the Agency may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The County or the Agency shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

**7. Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the Agency, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.
- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the Agency agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the Agency or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the Agency has a right to control.

- 8. **Insurance.** The Agency agrees to furnish the County with 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 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 Agreement. If self-insured, Agency shall provide documentation to the County of Agency's self-insured status by completing the Self-Insurance Certification form provided by the County.

9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

- A. Ben DeGiulio or their designee will act as liaison for the County.

**Contact Information:**

bdgiulio@clackamas.us

- Bob Stewart or their designee will act as liaison for the Agency.

**Contact Information:**

bob@gladstone.k12.or.us

10. **General Provisions.**

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas 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 County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of

law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.

- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Work Product.** All work performed under this Agreement shall be considered work made for hire and shall be the sole and exclusive property of the County. The County shall own any and all data, documents, plans, copyrights, specifications, working papers and any other materials produced in connection with this Agreement. On completion or termination of the Agreement, the Agency shall promptly deliver these materials to the County's Project Manager.
- F. **Hazard Communication.** Agency shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- G. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- H. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and



effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

- I. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- J. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- K. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- L. **No Third-Party Beneficiary.** Agency and County 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, 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 Agreement.
- M. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- N. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- Q. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- R. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- S. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall 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 Agreement.
- T. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency 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 purpose unless specifically authorized in writing under this Agreement.
- U. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**Clackamas County**

**Gladstone School District**

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

  
\_\_\_\_\_  
Rachel Lopez Hopper, CFO

\_\_\_\_\_  
Date

11/8/2021

Approved as to form: \_



Date: 11/8/2021

Funding:  
210.2130.0319.004.000.0273

## Exhibit A

### SCOPE OF WORK

#### Overall Strategy

1. Cost sharing for half time therapist to be embedded in Gladstone High School
2. Insurance blind services; OHP, Private, indigent, under-insured resources
3. Expedited access to services, co-location near school counselors
4. Services include staff communications, referral, mental health consults, mental illness assessments, treatment planning, therapy, follow-up, care-coordination & navigation with other supports for student well-being
5. Organizational learning from pilot project and District & County partnership.

#### Services Narrative

In partnership with the Gladstone High School, Clackamas Health Centers will provide a Mental/Behavioral Health (MH/BH) staff to be located at the High School approximately 2.5 days a week during the school year. The work they would be doing is three-fold; consultation/education for school counselors and staff, screening and coordination for students, and providing direct MH Therapy.

The consultation piece is related to the availability of the MH staff to the school staff, primarily school counselors, to discuss challenging cases, general approaches, and resources that can be used to support students. They will work in conjunction with staff on best approaches in a variety of school settings and with different teachers and providers. Education-wise, the MH staff could help present information alongside the health and wellness teachers around basic mental health, self-care, social-emotional supports and overall well-being.

Screenings and coordination could happen at the referral of a school counselor or principals to do brief screenings and interventions to help identify the best needs for the students and/or their families. School staff and MH staff to determine data collection needs for student well-being and pilot program efficacy; referrals conditions, services, etc.

Direct MH therapy would be available to those students and would benefit from such. This would include a mental health intake, treatment planning, and on-going treatment. This could also include group therapy if the need arises. This would be done when the circumstances are such that the student would be best served in the school setting.

Furthermore, the MH staff could then help provide bridge services until other connections are made with the appropriate outside provider or community resources. The MH staff could also be sure to incorporate the appropriate school staff as needed when screening for more high risk behaviors and higher levels of care.

#### Learning objectives from pilot project

Issues for shared inquiry during and at conclusion 2021-22 school year:

- Insurer support and other resources for co-located model outside community or school based health clinics?
- Cost sharing distribution among funders/payers and with non-billable services, under-insured students, family loads with co-pays and premiums, care-coordination & navigation. Mental Health flexible funds?
- Alignment of a school embedded therapist's functions with broader health, education, and insurer systems; Clackamas County Health Centers, Gladstone Culture of Care. Partnership value-add?
- Enhanced continuity of care for students; providers, clinics, service levels?
- Continuance, adjustments, upgrades for FY 22-23?

November 24, 2021

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of Amendment #2 to a Grant Agreement with Clackamas Women’s Services for Emergency Transitional Housing Services in the amount of \$105,000 in County General Funds through the Affordable Housing and Services Fund

<b>Purpose/Outcomes</b>	Agency will provide emergency motel vouchers for low-income and high-risk households.
<b>Dollar Amount and Fiscal Impact</b>	\$105,000 for Year 3, FY21-22
<b>Funding Source</b>	County General, Affordable Housing Services Fund.
<b>Duration</b>	Amendment is effective upon signature, with an eligible grant expenditure period of July 1, 2021 – June 30, 2022.
<b>Previous Board Action/Review</b>	The original agreement and amendment #1 were approved by the Board on 9-12-2019 and 10-8-2020. Board Issues date for Amendment #2: November 23, 2021
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This funding aligns with the Social Services Division’s strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing.</li> <li>2. This funding aligns with the County’s strategic priority to ensure safe, healthy and secure communities.</li> </ol>
<b>Counsel Review</b>	This Grant Amendment was reviewed and approved by County Counsel on 11-4-21 by KR.
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item processed through Procurement? No</li> <li>2. If no, provide brief explanation: This is a grant amendment, not subject to Procurement review.</li> </ol>
<b>Contact Person</b>	Brenda Durbin, Social Services Director (503)655-8641
<b>Contract No.</b>	H3S# 9436

**BACKGROUND:**

The Social Services Division (SSD) of the Health, Housing, and Human Services Department requests the approval of Amendment #2 to a Grant Agreement with Clackamas Women’s Services (CWS). CWS provides services for victims of domestic violence, and the funds will allow the agency to continue to administer a program that mitigates the risk of homelessness for

vulnerable members of the County through the provision of emergency motel vouchers for low-income and high-risk households.

The three-year contract maximum, if the optional renewal for the last year is approved, is \$300,000. Based on the successful completion of grant outcomes during Year 1, the need to modify the length of vouchers based on Year 2, as well as funding availability from the County General, Affordable Housing Services Fund, the grant is being amended to authorize the option for the Year 3 renewal.

This Grant Amendment was approved by County Counsel and is effective upon signature by all parties. The eligible grant expenditure period is July 1, 2021 through June 30, 2022. The funding source is County General, Affordable Housing Services Fund.

**RECOMMENDATION:**

Staff recommends Board approval of this Grant Amendment and authorization for Tootie Smith, Board Chair, to sign.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing and Human Services Department

Contract Amendment  
Health, Housing and Human Services Department

H3S Contract Number 9436 Board Agenda Number TBD

and Date November 24, 2021

Division Social Services Amendment No. 2

Contractor Clackamas Women's Services

Amendment Requested By Brenda Durbin, Director

Changes:       Scope of Services                       Contract Budget  
                   Contract Time                                       Other Authorizes Year 3 extension

**Justification for Amendment:**

The County awarded a grant to Clackamas Women's Services (CWS) to provide services for victims of domestic violence, and administer a program that mitigates the risk of homelessness for vulnerable members of the County through the provision of emergency motel vouchers for low-income and high-risk households. Year 2 ended on June 30, 2021.

The grant agreement with CWS provides for two (2) additional one-year optional renewals until June 30, 2022, dependent on agency performance, and with the approval of Board of County Commissioners, for a \$300,000 total contract maximum.

Due to unforeseen complications of the pandemic, Year 2 funding was not fully expended. To ensure Year 3 funding is fully expended, a modification is being requested, from authorizing 2 weeks per household to authorizing up to 4 weeks per household of emergency motel vouchering. One of the original intentions of the grant was to have survivors move out of shelter once they had housing secured, to free up more shelter beds. During the pandemic, CWS has been primarily using motel vouchering to provide shelter, and although they have increased the number of people served in the shelter program by over 50%, households rarely need less than 2 weeks of motel vouchering, which is the criteria for the grant.

Based on the need to consider modifications to the grant outcomes, as well as funding availability from the County General, Affordable Housing Services Fund, the grant is being amended to authorize the option for the Year 3 renewal, to be effective upon signature, with an eligible grant expenditure period of July 1, 2021 to June 30, 2022 in the amount of \$105,000.



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

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**AMEND ARTICLE I., Effective Date and Duration, TO INCLUDE:**

***Based on Contractor's performance and outcomes of the original Grant Agreement term, County Authorizes Year 3 renewal option, Fiscal Year 2021-2022 in the amount of \$105,000 as outlined in Article I, #3. Consideration and Exhibit A.***

***Year 3 eligible grant expenditure period is July 1, 2021 to June 30, 2022 as outlined in Exhibit A.***

**AMEND I. SCOPE OF WORK, TO READ:**

Funding for this project will enhance Contractor's Shelter and Housing Program's ability to mitigate the risk of homelessness for vulnerable members of the county through the provision of emergency motel vouchers for approximately 85 low-income and high-risk households during ***Year 1 and Year 2 funding, and approximately 42 households in Year 3 of funding.***

**AMEND II. PERFORMANCE OUTCOMES, PARAGRAPH B. TO READ:**

- B. Reported Outcomes for this Program
  - I. Up to 85 households will be provided with two-week motel vouchers ***in each Year 1 and Year 2*** the project is funded; ***and approximately 42 households will be provided up to four-week motel vouchers in Year 3 of funding.***

**AMEND III. COMPENSATION, PARAGRAPH I, TO READ:**

- I. ***Invoices shall be submitted to:  
Clackamas County Social Services, email: caainvoices@clackamas.us***

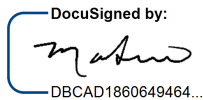
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IN WITNESS WHEREOF, the parties hereto have caused this amendment to be executed by their duly authorized officers.

**AGENCY**

**CLACKAMAS WOMEN'S SERVICES**

By:

DocuSigned by:  
  
DBCAD1860649464...

\_\_\_\_\_  
Melissa Erlbaum, Executive Director

11/7/2021

\_\_\_\_\_  
Date

256 Warner Milne Road  
Street Address

Oregon City, Oregon 97045

City / State / Zip

(503) 655-8600 /

Phone

/ Fax

**CLACKAMAS COUNTY**

Commissioner: Tootie Smith, Chair

Commissioner: Sonya Fischer

Commissioner: Paul Savas

Commissioner: Martha Schrader

Commissioner: Mark Shull

\_\_\_\_\_  
Tootie Smith, Chair

\_\_\_\_\_  
Date

Approved as to Form:



\_\_\_\_\_  
County Counsel

11/4/2021

\_\_\_\_\_  
Date

November 24, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Local Subrecipient Grant Agreement for Northwest Family Services to provide Family Resource Coordinators in Clackamas County Agreement is \$149,119 funded through Oregon Early Learning Division and Clackamas County General Fund

<b>Purpose/Outcome</b>	Northwest Family Services (NWFS) will continue to provide Family Resource Coordinators (FRC's) to connect families with children ages 0-6, who experience barriers to school success, with holistic services that promote family stability, healthy child development, and school readiness.  The FRC's will operate in the specified Health Equity Zone of Gladstone and Oregon City to receive, coordinate, and expedite service referrals for families to help them navigate healthcare, education, and other human service systems that facilitate family stability and access to necessary services.
<b>Dollar Amount and Fiscal Impact</b>	Agreement has a maximum value of \$149,119 and terminates on December 31, 2022 Clackamas County General Funds are involved
<b>Funding Source</b>	State of Oregon, Dept of Education through its Early Learning Division (\$49,119) and Clackamas County General Fund through its Children, Family & Community Connections Division (\$100,000).
<b>Duration</b>	This amendment is effective October 1, 2021 for services ending December 31, 2022
<b>Previous Board Action/Review</b>	Board Issues Date: 11/23/21
<b>Strategic Plan Alignment</b>	1. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	This Subrecipient Grant agreement has been reviewed and approved by County Counsel on 11/26/21, KR
<b>Procurement Review</b>	Was the item processed through Procurement? No. Subrecipient selected through a competitive process
<b>Contact Person</b>	Adam Freer 971-533-4929
<b>Contract No.</b>	CFCC #10424

**BACKGROUND:**

The Children, Family & Community Connections Division of the Health, Housing and Human Services Department requests approval of a Local Subrecipient Grant Agreement with NWFS to continue to provide Family Resource Coordinators in the Health Equity Zones of Gladstone and Oregon City. NWFS was selected through a competitive process in 2019 to provide Family Resource Coordination in Clackamas County. The FRC coordinates referrals for families, prioritizing those whose children ages 0-6

*Healthy Families. Strong Communities.*

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

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

experience barriers to school success, and follows-up with families and service providers to ensure timely access and assure that services have effectively met mutually identified needs.

This Local Subrecipient Grant Agreement is effective upon signature by all parties for services starting on October 1, 2021 and terminating on December 31, 2022. This Agreement has a maximum value of \$149,119.

**RECOMMENDATION:**

Staff recommends the Board approval of this Agreement and authorization for Tootie Smith, Board Chair, to sign on behalf of Clackamas County.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing & Human Services

Northwest Family Services  
 Local Subrecipient Grant Agreement – CFCC-10424

<b>CLACKAMAS COUNTY, OREGON</b> <b>LOCAL SUBRECIPIENT GRANT AGREEMENT CFCC- 10424</b>	
Program Name: <b>Family Resource Coordination</b> Program/Project Number: 10424	
This Agreement is between <b>Clackamas County, Oregon</b> , acting by and through its Health, Housing & Human Services Children, Family & Community Connections Division (COUNTY) and <b>Northwest Family Services</b> (SUBRECIPIENT), an Oregon Non-profit Organization.	
<b>COUNTY Data</b>	
Grant Accountant: Joseph Rosevear	Program Manager: Dani Stamm Thomas
Clackamas County Finance 2051 Kaen Road Oregon City, OR 97045 (503) 742-5429 jrosevear@clackamas.us	Children, Family & Community Connections 112 11 <sup>th</sup> Street Oregon City, OR 97045 (971) 288-8264 dstammthomas@clackamas.us
<b>SUBRECIPIENT Data</b>	
Finance/Fiscal Representative: Rose Fuller	Program Representative: Jackie Vargas
Northwest Family Services 6200 SE King Rd Portland, OR 97222 rfuller@nwfs.org	Northwest Family Services 6200 SE King Rd Portland, OR 97222 jvargas@nwfs.org
FEIN: 93-0841022	

**RECITALS**

1. Northwest Family Services (SUBRECIPIENT), a local Nonprofit 501(c)(3) organization, was selected through a competitive process in 2019 to provide Family Resource Coordinators in Clackamas County. The Family Resource Coordinator operates in a specified Health Equity Zone to receive, coordinate, and expedite service referrals for families with children ages 0-6 to assist families in navigating healthcare, education, and other human services systems that facilitate family stability and access to necessary services
2. SUBRECIPIENT will refer and connect families with children ages 0-6, who experience barriers to school success, to holistic services that promote family stability, healthy child development, and school readiness.
3. This Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Local SUBRECIPIENT Agreement, COUNTY and SUBRECIPIENT agree as follows:

## AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse SUBRECIPIENT for expenses approved in writing by County relating to the project incurred no earlier than **October 1, 2021** and not later than **December 31, 2022**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Scope of Work. SUBRECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of Clackamas County and the Oregon Early Learning Division HUB Grant Agreement.
4. **Grant Funds.** COUNTY's funding for this Agreement is Clackamas County (**\$100,000**) and the Oregon Early Learning Division HUB Coordination Grant (**\$46,119**). The maximum, not to exceed, grant amount that COUNTY will pay on this Agreement is **\$146,119**.
5. **Disbursements.** This is a cost reimbursement grant and disbursements will be made in accordance with the requirements contained in Exhibit D: Request for Reimbursement.

Failure to comply with the terms of this Agreement may result in withholding of payment.

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:
  - a. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
  - b. Mutual agreement by COUNTY and SUBRECIPIENT.
  - c. Written notice provided by COUNTY that funds are no longer available for this purpose.

Upon completion of improvements or upon termination of this Agreement, any unexpended balances of funds shall remain with COUNTY.

Effect of Termination. The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:

- d. Has already accrued hereunder;
- e. Comes into effect due to the expiration or termination of the Agreement; or
- f. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received

by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement

8. **Funds Available and Authorized.** COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.
10. **Nonprofit status.** SUBRECIPIENT warrants that it is, and shall remain during the performance of this Agreement, a private nonprofit Organization as defined in the Regulations, including:
  - a. That it is described in Section 501(c) of the Internal Revenue Code of 1954;
  - b. That it is exempt from taxation under Subtitle A of the Internal Revenue Code of 1954;
  - c. That it has an accounting system and a voluntary board; and
  - d. That it practices nondiscrimination in the provision of its services.
11. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:
  - a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
  - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned”. All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
  - c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT agrees to expend funds in accordance with the approved budget provided in this agreement. All expenditures that exceed a budget line item by more than 10% or \$500, whichever is greater, must be approved in writing by COUNTY. Budget revisions must be submitted and approved prior to changing the budget. At no time may budget modifications change the scope of the original grant application or agreement.
  - d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with Clackamas County and Oregon Early Learning Division.
  - e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
  - f) **Match.** Matching funds are not required for this Agreement.



- g) **Payment.** Routine requests for reimbursement should be submitted monthly by the 15<sup>th</sup> of the following month using the form and instructions in Exhibit D: Request for Reimbursement. SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement.
- h) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibit C: SUBRECIPIENT Performance Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit D: Request for Reimbursement. All reports must be signed and dated by an authorized official of SUBRECIPIENT.
- i) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- j) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, and its duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion.
- k) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2021), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
- l) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

## 12. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement.

- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request COUNTY resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

### General Agreement Provision

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
  - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury, death, and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
  - 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
  - 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this agreement, with limits not less than \$2,000,000 per occurrence for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.
  - 4) **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). If contractor is a subject employer, as defined

in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.

- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured, as well as the but only with respect to SUBRECIPIENT's activities under this agreement.
- 6) **Minors.** Contractor shall carry Abuse and Molestation Insurance as an endorsement to the Commercial General Liability policy, in a form and with coverage that are satisfactory to the County, covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured shall include the Contractor, and the Contractor's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. These limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
- 7) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
- 8) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 9) **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 10) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
- 11) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the agreement.

**Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the

work performed under this Agreement.

- a) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part with the express written approval of COUNTY.
- b) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- c) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- d) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- e) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- f) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- g) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- h) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- i) **Integration.** This agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements.

Northwest Family Services  
Local Subrecipient Grant Agreement – CFCC-10424

**SUBRECIPIENT**

Northwest Family Services  
6200 SE King Rd  
Portland, OR 97222

**CLACKAMAS COUNTY**

Commissioner Tootie Smith, Chair  
Commissioner Sonya Fischer  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Commissioner Mark Shull

By:   
Rose Fuller, Executive Director

By: \_\_\_\_\_  
Tootie Smith, Board Chair  
Clackamas County

Dated: 11/3/2021

Dated: \_\_\_\_\_

- Exhibit A-1: Scope of Work
- Exhibit A-2: Work Plan Quarterly Report
- Exhibit B: Program Budget
- Exhibit C: Quarterly Demographic Report
- Exhibit D-1: Request for Reimbursement
- Exhibit D-2: Monthly Activity Report

## **EXHIBIT A-1 SCOPE OF WORK**

Contractor shall provide Family Resource Coordination Services ("Work") as described in this Exhibit A-1 and A-2.

The Early Learning Hub of Clackamas County receives its funding from the State of Oregon's Early Learning Division whose mission it is *"to support all of Oregon's young children and families to learn and thrive. We value equity v. making a positive impact for children and families, dedication, integrity and collective wisdom to benefit Oregon children and families"*.

Our local Hub aligns with the State in its daily operations by working as an integrated team focused on: Child Care, Early Learning Programs and Cross Systems Integration, Policy and Research, and Equity.

A primary strategy of our Hub is to strengthen the comprehensive Family Resource Coordination system that places Family Resource Coordinators in targeted Health Equity Zones to create optimal access to quality programming. Health Equity Zones in Clackamas County include:

1. Gladstone
2. Oregon City

### **Program Goals**

The Family Resource Coordinator (FRC) is responsible for coordinating resources and services for families with children ages 0-6 prioritizing those who experience barriers to school success, in order to meet comprehensive Kindergarten Readiness goals including cognitive, language/literacy, social/emotional, behavioral, motor skills, health and well-being. The FRC operates in a specified Health Equity Zone to receive, coordinate, and expedite service referrals for families and help them navigate healthcare, education, and other human service systems. The FRC follows-up with families and service providers to ensure timely access and assure that services have effectively met mutually identified needs.

FRC primary tasks and goals Work include:

1. Being knowledgeable about early childhood development, childhood trauma, Adverse Childhood Experiences (ACEs), transitions, kindergarten readiness, impact of social determinants of health, and other risk factors, as well as the available service/referral options to meet each family's needs.
2. Building formal agreements with other family service providers, such as medical providers, educators, home visitors, school counselors, peer mentors, OHS Case Workers, parent coaches, and others to facilitate seamless referral and access to these services for families.
3. Accepting referrals from parents, school districts, early childhood providers, health providers, human and social service providers, and other child-serving entities.
4. Meeting with referred families to establish a menu of mutually agreed upon service and referral priorities.
5. Monitoring progress and timely follow-up with families to eliminate barriers to accessing recommended services.

6. Facilitating family's access to appropriate health and early childhood systems of screening and assessment (child development, medical, dental, mental health including childhood trauma and toxic stress, kindergarten readiness, and risk factors, etc.).
7. Utilizing Early Learning Hub required database platform to enter and track all client data, contacts, referrals and outcomes, on a continual basis, as work with clients occurs.
8. Participating in multi-specialist staffing sessions for struggling families with multiple destabilizing problems and utilizing multi-specialist teams such as Teacher Assistance Teams and Youth Services Teams.
9. Document comprehensive information about community resources through networks, databases, and partnership opportunities. Utilize and teach families to use Information & Referral tools such as 211, BabyLink, Help Me Grow, and Child Care Resource & Referral. Develop a menu of frequently needed services including, but not limited to basic needs, support groups, vocational development, parents supports and education, mentors, tutors, and social/emotional counseling and support
10. Submit monthly and quarterly reports and invoices as requested via the Clackamas County required reporting database and/or paper reports as requested.



**EXHIBIT A-2**

**Work Plan and Quarterly Report**

Clackamas County Children, Family & Community Connections Division  
 Early Learning Hub of Clackamas County  
 Work Plan and Quarterly Report



**Provider:** Northwest Family Services  
**Program:** Family Resource Coordination  
**Quarter:**

**Reporting Period:** October 1, 2021— December 31, 2022

**Hub Goals:**

1. Aligned, coordinated, and family-centered early childhood system
2. Children are supported to enter school ready to succeed
3. Families are healthy, stable and attached

Activities/Outputs	Intermediate Outcomes/Measurement Tool		Oct-Dec 2021	Jan-Mar 2022	Apr-Jun 2022	Jul-Sep 2022	Oct-Dec 2022				
By Dec 31, 2022, 200 Families with children (0-6) will be referred and connected to holistic services that promote family stability, healthy child development, and school readiness.	<b>85% of families</b> are referred to school staff, family advocates, home visitors, early childhood specialists, behavioral health, and employment specialists.	# Families referred									
		# Families Successfully Connected									
	<b>85% of families</b> will complete early childhood screening and assessments (Developmental, medical, dental, vision, hearing, etc).	# Families referred for screening/ assessments									
		# Families completing screening/ assessments									
	<b>85% of families</b> will be referred to a pediatrician, establish a medical/dental home, insurance enrollment support, and will be offered other health services that promote resiliency and increase protective factors.	# Families referred									
		# Families Successfully Connected									
By Dec 31, 2022, Program participants will receive a minimum of <b>4</b> contacts, one of which will be face to face. <i>Contact is defined as:</i> face to face, phone call, email, or texting.	<b>85% of families</b> will follow through with mutually agreed upon referrals: assessments, treatment options, and family requested supports.	# Families Served									
		# Successful Follow Through on Plans									
By Dec 31, 2022, 150 families will be educated to use Information and Referrals systems i.e. 211info, BabyLink, CCR&R, TriMet Ride, IMATCH, Help Me Grow, etc.	<b>85% of parents</b> report that they know how to use I&R systems	# Families Served									
		# Families that report knowing how to use I&R services									
By Dec 31, 2022, all parents served by FRC will receive information on school/ kindergarten readiness, transition to school, literacy, and social/emotional development.	<b>100%</b> of families served by FRC will receive kindergarten readiness, successful transitions, literacy, and social emotional development information.	# Families Served									
<b>List Schools, Districts, Community Based Organizations, medical providers, etc. that participated in planning/implementation/ongoing support and referrals of FRC work:</b>											
<b>List community meetings attended during the reporting period:</b>											



**Children, Family and Community Connections Division  
Early Learning Hub of Clackamas County  
Family Resource Coordination  
Work Plan 2021-2022  
Comments and Narrative**

**Provider/ Location:**

**Quarter:**

1. Provide detailed information to explain the numbers and activities reported in the work plan above.
  - a. General project information:
  - b. Professional Development Activities:
  - c. Family Focused Activities:
  - d. Child Focused Activities:
  
2. What are your **successes** this quarter, and what are some of the most impactful practices that your organization has implemented as a result of this project?
  
3. What **challenges** have you experienced this quarter?

**Family Success Stories:**

## FRC Reporting Requirements

### Monthly report, general ledger and reimbursement request

- No later than the 15th of every month
- Reports go to: Dani Stamm Thomas [dstammthomas@clackamas.us](mailto:dstammthomas@clackamas.us)
- All reports need to CC: Chelsea Hamilton [Chamilton@clackamas.us](mailto:Chamilton@clackamas.us) and Stephanie Radford [SRadford@clackamas.us](mailto:SRadford@clackamas.us)

### Quarterly Report, Client Satisfaction Surveys and Demographic Data Forms due:

- |              |                      |
|--------------|----------------------|
| • Oct-Dec    | Due January 15, 2022 |
| • Jan-Mar    | Due April 16, 2022   |
| • April-June | Due July 16, 2022    |
| • July-Sept  | Due October 15, 2022 |
| • Oct-Dec    | Due January 15, 2023 |

### Client Satisfaction Surveys

Clackamas County's initiative to measure client satisfaction with direct services provided or funded by the county (if applicable).

**Exhibit B: Budget**

<b>Exhibit B: Budget</b>			
Contractor: <u>Northwest Family Services</u> Program: <u>Family Resource Coordinator</u> Address: <u>6200 SE King Rd</u> <u>Portland, OR 97222</u>		<b>FRC</b>  Contract #: Contract Term: <span style="float: right;">10/1/21-12/31/22</span>	
Contact Person: <u>Jackie Vargas</u> Phone Number: _____ E-mail: _____			
Budget Category	Approved Budget 10/1/21-12/31/22		Total Budget
<b><i>Personnel</i></b>			
Family Resource Coordinator 1fte @ 40,560	\$ 50,700.00	\$ -	\$ 50,700.00
Family Resource Coordinator 1fte @ 38,480	\$ 48,105.00	\$ -	\$ 48,105.00
Supervision (.10 fte @ 58,000)	\$ 7,250.00	\$ -	\$ 7,250.00
Fringe	\$ 27,191.00	\$ -	\$ 27,191.00
			\$ -
	<b>\$ 133,246.00</b>	<b>\$ -</b>	<b>\$ 133,246.00</b>
<b><i>Administration</i></b>			
Admin	\$ 11,992.00	\$ -	\$ 11,992.00
	<b>\$ 11,992.00</b>	<b>\$ -</b>	<b>\$ 11,992.00</b>
<b><i>Program costs</i></b>			
Materials/Supplies	\$ -	\$ -	\$ -
Mileage	\$ 881.00	\$ -	\$ 881.00
Additional (please specify)			
	\$ -	\$ -	\$ -
	<b>\$ 881.00</b>	<b>\$ -</b>	<b>\$ 881.00</b>
<b>Total Budget</b>	<b>\$ 146,119.00</b>	<b>\$ -</b>	<b>\$ 146,119.00</b>

### EXHIBIT C: Quarterly Demographic Report

Quarterly Demographic Report														
Program: FRC Gladstone	Provider: NWFS													
Race/Ethnicity	Program Participants Served													
* Participants should be counted in one category of race/ethnicity. * Participants that identify as multi-racial should be counted in that category and the particular racial mix should be included in a narrative.	First quarter count ALL clients as new												TOTAL SERVED YTD	
	Oct-Dec 21	Jan-Mar 22			Apr-Jun 22			July-Sep 22			Oct-Dec 22			
		NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING		CLOSED
<b>American Indian and Alaska Native</b>														
American Indian														0
Alaska Native														0
Canadian Inuit, Metis or First Nation (please identify in narrative)														0
<b>Asian</b>														
Chinese														0
Vietnamese														0
Korean														0
Laotian														0
Filipino														0
Japanese														0
South Asian														0
Asian Indian														0
Other Asian (please identify in narrative)														0
<b>Black/African American</b>														
African American														0
African														0
Caribbean														0
Other Black (please identify in narrative)														0
<b>Hispanic or Latino</b>														
Hispanic or Latino Mexican														0
Hispanic or Latino Central American														0
Hispanic or Latino South American														0
Other Hispanic or Latino (please identify in narrative)														0
Indigenous Mexican, Central American or South American (please identify)														0
<b>Pacific Islander</b>														
Native Hawaiian														0
Guamanian or Chamorro														0
Samoan														0
Other Pacific Islander (please identify in narrative)														0
White														0
Slavic														0
Middle Eastern														0
North African														0
Multi-Racial (please identify in narrative)														0
Decline to Answer														0
Unknown														0
<b>TOTAL BY RACE/ETHNICITY</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Primary Language</b>														
Cantonese														0
English														0
Russian														0
Spanish														0
Ukrainian														0
Vietnamese														0
Other (list language in narrative)														0
<b>TOTAL BY LANGUAGE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Gender Identification</b>														
Female														0
Male														0
Transgender														0
Unknown or Declined to Say														0
<b>TOTAL BY GENDER</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Age</b>														
0-6														0
7-12														0
13-17														0
18-24														0
25-59														0
60+														0
Unknown or Declined														0
<b>TOTAL BY AGE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Race/Ethnicity: TOTAL, Gender: TOTAL, and Age: TOTALs should match.														

**Quarterly Demographics Report**

Program: FRC Oregon City		Provider: NWFS												
Race/Ethnicity		Program Participants Served												TOTAL SERVED YTD
• Participants should be counted in one category of race/ethnicity. • Participants that identify as multi-racial should be counted in that category and the particular racial mix should be included in a narrative.		First quarter count ALL clients as new												
		Oct-Dec 21	Jan-Mar 22			Apr-Jun 22			July-Sep 22			Oct-Dec 22		
		NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	
<b>American Indian and Alaska Native</b>														
American Indian														0
Alaska Native														0
Canadian Inuit, Mets or First Nation (please identify in narrative)														0
<b>Asian</b>														0
Chinese														0
Vietnamese														0
Korean														0
Laotian														0
Filipino														0
Japanese														0
South Asian														0
Asian Indian														0
Other Asian (please identify in narrative)														0
<b>Black/African American</b>														0
African American														0
African														0
Caribbean														0
Other Black (please identify in narrative)														0
<b>Hispanic or Latino</b>														0
Hispanic or Latino Mexican														0
Hispanic or Latino Central American														0
Hispanic or Latino South American														0
Other Hispanic or Latino (please identify in narrative)														0
Indigenous Mexican, Central American or South American (please identify)														0
<b>Pacific Islander</b>														0
Native Hawaiian														0
Guamanian or Chamorro														0
Samoan														0
Other Pacific Islander (please identify in narrative)														0
<b>White</b>														0
Slavic														0
Middle Eastern														0
North African														0
Multi-Racial (please identify in narrative)														0
Decline to Answer														0
Unknown														0
<b>TOTAL BY RACE/ETHNICITY</b>		0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Primary Language</b>														0
Cantonese														0
English														0
Russian														0
Spanish														0
Ukrainian														0
Vietnamese														0
Other (list language in narrative)														0
<b>TOTAL BY LANGUAGE</b>		0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Gender Identification</b>														0
Female														0
Male														0
Transgender														0
Unknown or Declined to Say														0
<b>TOTAL BY GENDER</b>		0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Age</b>														0
0-6														0
7-12														0
13-17														0
18-24														0
25-59														0
60+														0
Unknown or Declined														0
<b>TOTAL BY AGE</b>		0	0	0	0	0	0	0	0	0	0	0	0	0
Race/Ethnicity TOTAL, Gender TOTAL and Age TOTALs should match														

**EXHIBIT D-1: REIMBURSEMENT REQUEST**

<b>Exhibit D-1: REQUEST FOR REIMBURSEMENT</b>				
Requests for reimbursement and supporting documentation are due monthly by the 15th of the month, including: <ul style="list-style-type: none"> <li>• Request for Reimbursement with an authorized signature</li> <li>• General Ledger backup to support the requested amount</li> <li>• Monthly Activity Report (Exhibit D-2) showing numbers served and activities conducted during the month of request <i>(The Monthly Activity Report is NOT required on months when quarterly reports are due).</i></li> </ul>				
Contractor: Northwest Family Services Address: 6200 SE King Rd Portland, OR 97222 Contact Person: Jackie Vargas Contact Info: _____ Term: 10/1/21-12/31/22		Contract Number: _____ Report Period: _____ <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px auto; text-align: center;">FRC</div>		
Budget Category	Approved Budget (10/1/21-12/31/22)	Current Draw Request	Previously Requested	Balance
<b><u>Personnel</u></b>				
Family Resource Coordinator 1fte @ 40,560	\$ 50,700.00	\$ -	\$ -	\$ 50,700.00
Family Resource Coordinator 1fte @ 38,480	\$ 48,105.00	\$ -	\$ -	\$ 48,105.00
Supervision (.10 fte @ \$58k)	\$ 7,250.00	\$ -	\$ -	\$ 7,250.00
Fringe	\$ 27,191.00	\$ -	\$ -	\$ 27,191.00
	<b>\$ 133,246.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 133,246.00</b>
<b><u>Administration</u></b>				
Admin	\$ 11,992.00	\$ -	\$ -	\$ 11,992.00
	<b>\$ 11,992.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 11,992.00</b>
<b><u>Program costs</u></b>				
Materials/Supplies	\$ -	\$ -	\$ -	\$ -
Mileage	\$ 881.00	\$ -	\$ -	\$ 881.00
Additional (please specify)				
	\$ -	\$ -	\$ -	\$ -
	<b>\$ 881.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 881.00</b>
<b>Total Budget</b>	<b>\$ 146,119.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 146,119.00</b>
Clackamas County retains the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient that are pertinent to this Agreement.				

**CERTIFICATION**

*By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and represents actual expenditures, disbursements and cash receipts for the purposes and objectives set forth in the terms of the agreement.*



## EXHIBIT D-2: MONTHLY ACTIVITY REPORT

**Agency:** Northwest Family Services

**Funded Service:** Family Resource Coordinator

**Program Contact:**

**Month:**

*This report covers the fiscal year starting **October 1, 2021 through December 31, 2022.***

*Complete the sections below as they apply to the group(s) targeted for services with this funding as outlined in your Work Plan.*

*Submit this report with monthly requests for reimbursement except on months when the quarterly report is submitted.*

- 1. Total number of participants served during the month with the funding allocated for this programming:**

Number of children:

Number of Families:

- 2. Activities that were conducted during the month with the funding allocated for this programming:**
- 3. Issues related to service delivery and how those issues were addressed.**

Person(s) completing this form:

Date:

November 24, 2021

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of a Local Subrecipient Grant Agreement for Metropolitan Family Services to provide Family Resource Coordinators in Clackamas County Agreement is \$149,119 funded through Oregon Early Learning Division No County General Funds are involved

<b>Purpose/Outcome</b>	Metropolitan Family Resources will continue to provide Family Resource Coordinators (FRC's) to connect families with children ages 0-6, who experience barriers to school success, with holistic services that promote family stability, healthy child development, and school readiness.  The FRC's will operate in the specified Health Equity Zone in North Clackamas County to receive, coordinate, and expedite service referrals for families to help them navigate healthcare, education, and other human service systems that facilitate family stability and access to necessary services.
<b>Dollar Amount and Fiscal Impact</b>	Agreement has a maximum value of \$149,119 and terminates on December 31, 2022 No County Funds are involved
<b>Funding Source</b>	State of Oregon, Dept of Education through its Early Learning Division
<b>Duration</b>	This amendment is effective October 1, 2021 for services ending December 31, 2022
<b>Previous Board Action/Review</b>	Board Issues Date: 11/23/21
<b>Strategic Plan Alignment</b>	1. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	This Subrecipient Grant agreement has been reviewed and approved by County Counsel on 11/3/21 , KR
<b>Procurement Review</b>	Was the item processed through Procurement? No. Subrecipient selected through a competitive process
<b>Contact Person</b>	Adam Freer 971-533-4929
<b>Contract No.</b>	CFCC #10423

**BACKGROUND:**

The Children, Family & Community Connections Division of the Health, Housing and Human Services Department requests approval of a Local Subrecipient Grant Agreement with MFS to continue to provide Family Resource Coordinators in the Health Equity Zones of North Clackamas County. MFS was selected through a competitive process in 2019 to provide Family Resource Coordination in Clackamas County. The FRC coordinates referrals for families, prioritizing those whose children ages 0-6 experience barriers to school success, and follows-up with families and service providers to ensure timely access and assure that services have effectively met mutually identified needs.

*Healthy Families. Strong Communities.*

This Local Subrecipient Grant Agreement is effective upon signature by all parties for services starting on October 1, 2021 and terminating on December 31, 2022. This Agreement has a maximum value of \$149,119.

**RECOMMENDATION:**

Staff recommends the Board approval of this Agreement and authorization for Tootie Smith, Board Chair, to sign on behalf of Clackamas County.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing & Human Services

<b>CLACKAMAS COUNTY, OREGON</b> <b>LOCAL SUBRECIPIENT GRANT AGREEMENT CFCC- H3S10423</b>	
Program Name: <b>Family Resource Coordination</b> Program/Project Number: 10423	
This Agreement is between <b>Clackamas County, Oregon</b> , acting by and through its Health, Housing & Human Services Children, Family & Community Connections Division (COUNTY) and <b>Metropolitan Family Services</b> (SUBRECIPIENT), an Oregon Non-profit Organization.	
<b>COUNTY Data</b>	
Grant Accountant: Joseph Rosevear	Program Manager: Dani Stamm Thomas
Clackamas County Finance 2051 Kaen Road Oregon City, OR 97045 (503) 742-5429 jrosevear@clackamas.us	Children, Family & Community Connections 112 11 <sup>th</sup> Street Oregon City, OR 97045 (971) 288-8264 dstammthomas@clackamas.us
<b>SUBRECIPIENT Data</b>	
Finance/Fiscal Representative: Fay Allison	Program Representative: Meghan Zook
Metropolitan Family Services 1808 SE Belmont Portland, OR 97214 faya@mfs.email	Metropolitan Family Services 1808 SE Belmont Portland, OR 97214 meganz@mfs.email
FEIN: 93-0397825	

**RECITALS**

1. Metropolitan Family Services (SUBRECIPIENT), a local Nonprofit 501(c)(3) organization, was selected through a competitive process in 2019 to provide Family Resource Coordinators in North Clackamas County. The Family Resource Coordinator operates in a specified Health Equity Zone to receive, coordinate, and expedite service referrals for families with children ages 0-6 to assist families in navigating healthcare, education, and other human services systems that facilitate family stability and access to necessary services
2. SUBRECIPIENT will refer and connect families with children ages 0-6 who experience barriers to school success, to holistic services that promote family stability, healthy child development, and school readiness.
3. This Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Local SUBRECIPIENT Agreement, COUNTY and SUBRECIPIENT agree as follows:

## AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse SUBRECIPIENT for expenses approved in writing by County relating to the project incurred no earlier than **October 1, 2021** and not later than **December 31, 2022**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Scope of Work. SUBRECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Oregon Early Learning Division HUB Grant Agreement.
4. **Grant Funds.** COUNTY's funding for this Agreement is Oregon Early Learning Division HUB Coordination Grant (**\$146,119**). The maximum, not to exceed, grant amount that COUNTY will pay on this Agreement is **\$146,119**.
5. **Disbursements.** This is a cost reimbursement grant and disbursements will be made in accordance with the requirements contained in Exhibit D: Request for Reimbursement.

Failure to comply with the terms of this Agreement may result in withholding of payment.

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:
  - a. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
  - b. Mutual agreement by COUNTY and SUBRECIPIENT.
  - c. Written notice provided by COUNTY that funds are no longer available for this purpose.

Upon completion of improvements or upon termination of this Agreement, any unexpended balances of funds shall remain with COUNTY.

Effect of Termination. The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:

- d. Has already accrued hereunder;
- e. Comes into effect due to the expiration or termination of the Agreement; or
- f. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that

will become due and payable as a result of the termination of this Agreement

8. **Funds Available and Authorized.** COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.
10. **Nonprofit status.** SUBRECIPIENT warrants that it is, and shall remain during the performance of this Agreement, a private nonprofit Organization as defined in the Regulations, including:
  - a. That it is described in Section 501(c) of the Internal Revenue Code of 1954;
  - b. That it is exempt from taxation under Subtitle A of the Internal Revenue Code of 1954;
  - c. That it has an accounting system and a voluntary board; and
  - d. That it practices nondiscrimination in the provision of its services.
11. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:
  - a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
  - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned”. All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
  - c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT agrees to expend funds in accordance with the approved budget provided in this agreement. All expenditures that exceed a budget line item by more than 10% or \$500, whichever is greater, must be approved in writing by COUNTY. Budget revisions must be submitted and approved prior to changing the budget. At no time may budget modifications change the scope of the original grant application or agreement.
  - d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with Clackamas County and Oregon Early Learning Division.
  - e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
  - f) **Match.** Matching funds are not required for this Agreement.
  - g) **Payment.** Routine requests for reimbursement should be submitted monthly by the 15<sup>th</sup> of the following month using the form and instructions in Exhibit D: Request for

Reimbursement. SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement.

- h) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibit C: SUBRECIPIENT Performance Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit D: Request for Reimbursement. All reports must be signed and dated by an authorized official of SUBRECIPIENT.
- i) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- j) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, and its duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion.
- k) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2021), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
- l) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

## 12. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request COUNTY resolve the



conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

### General Agreement Provision

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
  - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury, death, and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
  - 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
  - 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this agreement, with limits not less than \$2,000,000 per occurrence for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.
  - 4) **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). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
  - 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution

Liability Insurance, shall include “Clackamas County, its agents, officers, and employees” as an additional insured, as well as the but only with respect to SUBRECIPIENT’s activities under this agreement.

- 6) **Minors.** Contractor shall carry Abuse and Molestation Insurance as an endorsement to the Commercial General Liability policy, in a form and with coverage that are satisfactory to the County, covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor’s employees and volunteers. Policy endorsement’s definition of an insured shall include the Contractor, and the Contractor’s employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. These limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
- 7) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
- 8) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best’s Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 9) **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 10) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
- 11) **Cross-Liability Clause.** A cross-liability clause or separation of insured’s condition will be included in all general liability, professional liability, and errors and omissions policies required by the agreement.

**Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.

- a) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part with the express written approval of COUNTY.

- b) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- c) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- d) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- e) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- f) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- g) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- h) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- i) **Integration.** This agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements.

**SUBRECIPIENT**

Metropolitan Family Services  
1808 SE Belmont  
Portland, OR 97214

**CLACKAMAS COUNTY**

Commissioner Tootie Smith, Chair  
Commissioner Sonya Fischer  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Commissioner Mark Shull

By: *Jma Strand*

\_\_\_\_\_  
Judy Strand, MFS Chief Executive  
Officer

Dated: November 5, 2021

By: \_\_\_\_\_

Tootie Smith, Board Chair  
Clackamas County

Dated: \_\_\_\_\_

- Exhibit A-1: Scope of Work
- Exhibit A-2: Work Plan Quarterly Report
- Exhibit B: Program Budget
- Exhibit C: Quarterly Demographic Report
- Exhibit D-1: Request for Reimbursement
- Exhibit D-2: Monthly Activity Report

## **EXHIBIT A-1 SCOPE OF WORK**

Contractor shall provide Family Resource Coordination Services ("Work") as described in this Exhibit A-1 and A-2.

The Early Learning Hub of Clackamas County receives its funding from the State of Oregon's Early Learning Division whose mission it is *"to support all of Oregon's young children and families to learn and thrive. We value equity v. making a positive impact for children and families, dedication, integrity and collective wisdom to benefit Oregon children and families"*.

Our local Hub aligns with the State in its daily operations by working as an integrated team focused on: Child Care, Early Learning Programs and Cross Systems Integration, Policy and Research, and Equity.

A primary strategy of our Hub is to strengthen the comprehensive Family Resource Coordination system that places Family Resource Coordinators in targeted Health Equity Zones to create optimal access to quality programming. Health Equity Zones in North Clackamas County include:

1. North Clackamas Regions A & B

### **Program Goals**

The Family Resource Coordinator (FRC) is responsible for coordinating resources and services for families with children ages 0-6 prioritizing those who experience barriers to school success, in order to meet comprehensive Kindergarten Readiness goals including cognitive, language/literacy, social/emotional, behavioral, motor skills, health and well-being. The FRC operates in a specified Health Equity Zone to receive, coordinate, and expedite service referrals for families and help them navigate healthcare, education, and other human service systems. The FRC follows-up with families and service providers to ensure timely access and assure that services have effectively met mutually identified needs.

FRC primary tasks and goals Work include:

1. Being knowledgeable about early childhood development, childhood trauma, Adverse Childhood Experiences (ACEs), transitions, kindergarten readiness, impact of social determinants of health, and other risk factors, as well as the available service/referral options to meet each family's needs.
2. Building formal agreements with other family service providers, such as medical providers, educators, home visitors, school counselors, peer mentors, OHS Case Workers, parent coaches, and others to facilitate seamless referral and access to these services for families.
3. Accepting referrals from parents, school districts, early childhood providers, health providers, human and social service providers, and other child-serving entities.
4. Meeting with referred families to establish a menu of mutually agreed upon service and referral priorities.
5. Monitoring progress and timely follow-up with families to eliminate barriers to accessing recommended services.

Metropolitan Family Services  
Local Subrecipient Grant Agreement – CFCC-10423

6. Facilitating family's access to appropriate health and early childhood systems of screening and assessment (child development, medical, dental, mental health including childhood trauma and toxic stress, kindergarten readiness, and risk factors, etc.).
7. Utilizing Early Learning Hub required database platform to enter and track all client data, contacts, referrals and outcomes, on a continual basis, as work with clients occurs.
8. Participating in multi-specialist staffing sessions for struggling families with multiple destabilizing problems and utilizing multi-specialist teams such as Teacher Assistance Teams and Youth Services Teams.
9. Document comprehensive information about community resources through networks, databases, and partnership opportunities. Utilize and teach families to use Information & Referral tools such as 211, BabyLink, Help Me Grow, and Child Care Resource & Referral. Develop a menu of frequently needed services including, but not limited to basic needs, support groups, vocational development, parents supports and education, mentors, tutors, and social/emotional counseling and support
10. Submit monthly and quarterly reports and invoices as requested via the Clackamas County required reporting database and/or paper reports as requested.

**EXHIBIT A-2**

**Work Plan and Quarterly Report**

**Clackamas County Children, Family & Community Connections Division  
Early Learning Hub of Clackamas County  
Work Plan and Quarterly Report**



**Provider: Metropolitan Family Services- Region:  
Program: Family Resource Coordination  
Quarter:  
Reporting Period: October 1, 2021— December 31, 2022**

**Hub Goals:**

1. Aligned, coordinated, and family-centered early childhood system
2. Children are supported to enter school ready to succeed
3. Families are healthy, stable and attached

Activities/Outputs	Intermediate Outcomes/Measurement Tool		Oct-Dec 2021	Jan-Mar 2022	Apr-Jun 2022	Jul-Sep 2022	Oct-Dec 2022				
By Dec 31, 2022, 200 Families with children (0-6) will be referred and connected to holistic services that promote family stability, healthy child development, and school readiness.	<b>85% of families</b> are referred to school staff, family advocates, home visitors, early childhood specialists, behavioral health, and employment specialists.	# Families referred									
		# Families Successfully Connected									
	<b>85% of families</b> will complete early childhood screening and assessments (Developmental, medical, dental, vision, hearing, etc).	# Families referred for screening/ assessments									
		# Families completing screening/ assessments									
	<b>85% of families</b> will be referred to a pediatrician, establish a medical/dental home, insurance enrollment support, and will be offered other health services that promote resiliency and increase protective factors.	# Families referred									
		# Families Successfully Connected									
By Dec 31, 2022, Program participants will receive a minimum of <b>4</b> contacts, one of which will be face to face. <i>Contact is defined as: face to face, phone call, email, or texting.</i>	<b>85% of families</b> will follow through with mutually agreed upon referrals: assessments, treatment options, and family requested supports.	# Families Served									
		# Successful Follow Through on Plans									
By Dec 31, 2022, 150 families will be educated to use Information and Referrals systems i.e. 211info, BabyLink, CCR&R, TriMet Ride, IMATCH, Help Me Grow, etc.	<b>85% of parents</b> report that they know how to use I&R systems	# Families Served									
		# Families that report knowing how to use I&R services									
By Dec 31, 2022, all parents served by FRC will receive information on school/ kindergarten readiness, transition to school, literacy, and social/emotional development.	<b>100%</b> of families served by FRC will receive kindergarten readiness, successful transitions, literacy, and social emotional development information.	# Families Served									
<b>List Schools, Districts, Community Based Organizations, medical providers, etc. that participated in planning/implementation/ongoing support and referrals of FRC work:</b>											
<b>List community meetings attended during the reporting period:</b>											





**Children, Family and Community Connections Division  
Early Learning Hub of Clackamas County  
Family Resource Coordination  
Work Plan 2021-2022  
Comments and Narrative**

**Provider/ Location:**

**Quarter:**

1. Provide detailed information to explain the numbers and activities reported in the work plan above.
  - a. General project information:
  - b. Professional Development Activities:
  - c. Family Focused Activities:
  - d. Child Focused Activities:
2. What are your **successes** this quarter, and what are some of the most impactful practices that your organization has implemented as a result of this project?
3. What **challenges** have you experienced this quarter?

**Family Success Stories:**

## **FRC Reporting Requirements**

### **Monthly report, general ledger and reimbursement request**

- No later than the 15th of every month
- Reports go to: Dani Stamm Thomas [dstammthomas@clackamas.us](mailto:dstammthomas@clackamas.us)
- All reports need to CC: Chelsea Hamilton [Chamilton@clackamas.us](mailto:Chamilton@clackamas.us) and Stephanie Radford [SRadford@clackamas.us](mailto:SRadford@clackamas.us)

### **Quarterly Report, Client Satisfaction Surveys and Demographic Data Forms due:**

- |              |                             |
|--------------|-----------------------------|
| ● Oct-Dec    | <b>Due January 15, 2022</b> |
| ● Jan-Mar    | <b>Due April 16, 2022</b>   |
| ● April-June | <b>Due July 16, 2022</b>    |
| ● July-Sept  | <b>Due October 15, 2022</b> |
| ● Oct-Dec    | <b>Due January 15, 2023</b> |

### **Client Satisfaction Surveys**

Clackamas County's initiative to measure client satisfaction with direct services provided or funded by the county (if applicable).

**Exhibit B: Budget**

<b>Exhibit B: Budget</b>			
<b>Contractor:</b>	Metropolitan Family Services		FRC
<b>Program:</b>	Family Resource Coordinator		
<b>Address:</b>			
<b>Contact Person:</b>	Meghan Zook	<b>Contract #:</b>	
<b>Phone Number:</b>		<b>Contract Term:</b>	10/1/21-12/31/22
<b>E-mail:</b>	<a href="mailto:meganz@mfs.email">meganz@mfs.email</a>		
<b>Budget Category</b>	<b>Approved Budget 10/1/21-12/31/22</b>		<b>Total Budget</b>
<b><u>Personnel</u></b>			
Family Resource Coordinator Region A .77fte	\$ 46,780.24	\$ -	\$ 46,780.24
Family Resource Coordinator Region B .77fte	\$ 47,028.80	\$ -	\$ 47,028.80
Supervision .0625fte	\$ 4,649.13	\$ -	\$ 4,649.13
Fringe	\$ 28,601.83	\$ -	\$ 28,601.83
			\$ -
	<b>\$ 127,060.00</b>	<b>\$ -</b>	<b>\$ 127,060.00</b>
<b><u>Administration</u></b>			
Admin 15%	\$ 19,059.00	\$ -	\$ 19,059.00
	<b>\$ 19,059.00</b>	<b>\$ -</b>	<b>\$ 19,059.00</b>
<b><u>Program costs</u></b>			
Materials/Supplies	\$ -	\$ -	\$ -
Mileage	\$ -	\$ -	\$ -
Additional (please specify)			
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
<b>Total Budget</b>	<b>\$ 146,119.00</b>	<b>\$ -</b>	<b>\$ 146,119.00</b>

### EXHIBIT C: Quarterly Demographics Report

Quarterly Demographics Report														
Program: FRC Region A	Provider: Metropolitan Family Service													
Race/Ethnicity  • Participants should be counted in one category of race/ethnicity. • Participants that identify as multi-racial should be counted in that category and the particular racial mix should be included in a narrative.	Program Participants Served													
	First quarter count ALL clients as new													
	Oct-Dec 21	Jan-Mar 22			Apr-Jun 22			July-Sep 22			Oct-Dec 22			TOTAL SERVED YTD
	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED		
<b>American Indian and Alaska Native</b>														0
American Indian														0
Alaska Native														0
Canadian Inuit, Metis or First Nation <i>(please identify in narrative)</i>														0
<b>Asian</b>														0
Chinese														0
Vietnamese														0
Korean														0
Laotian														0
Filipino														0
Japanese														0
South Asian														0
Asian Indian														0
Other Asian <i>(please identify in narrative)</i>														0
<b>Black/African American</b>														0
African American														0
African														0
Caribbean														0
Other Black <i>(please identify in narrative)</i>														0
<b>Hispanic or Latino</b>														0
Hispanic or Latino Mexican														0
Hispanic or Latino Central American														0
Hispanic or Latino South American														0
Other Hispanic or Latino <i>(please identify in narrative)</i>														0
Indigenous Mexican, Central American or South American <i>(please identify)</i>														0
<b>Pacific Islander</b>														0
Native Hawaiian														0
Guamanian or Chamorro														0
Samoa														0
Other Pacific Islander <i>(please identify in narrative)</i>														0
White														0
Slavic														0
Middle Eastern														0
North African														0
Multi-Racial <i>(please identify in narrative)</i>														0
Decline to Answer														0
Unknown														0
<b>TOTAL BY RACE/ETHNICITY</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Primary Language</b>														0
Cantonese														0
English														0
Russian														0
Spanish														0
Ukrainian														0
Vietnamese														0
Other <i>(list language in narrative)</i>														0
<b>TOTAL BY LANGUAGE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Gender Identification</b>														0
Female														0
Male														0
Transgender														0
Unknown or Declined to Say														0
<b>TOTAL BY GENDER</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Age</b>														0
0-6														0
7-12														0
13-17														0
18-24														0
25-59														0
60+														0
Unknown or Declined														0
<b>TOTAL BY AGE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Race/Ethnicity TOTAL, Gender TOTAL and Age TOTALs should match.

Metropolitan Family Services  
Local Subrecipient Grant Agreement – CFCC-10423

Quarterly Demographics Report														
Program: FRC Region B	Provider: Metropolitan Family Service													
Race/Ethnicity  • Participants should be counted in one category of race/ethnicity. • Participants that identify as multi-racial should be counted in that category and the particular racial mix should be included in a narrative.	Program Participants Served													
	First quarter count ALL clients as new													
	Oct-Dec 21	Jan-Mar 22			Apr-Jun 22			July-Sep 22			Oct-Dec 22			TOTAL SERVED YTD
	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED	NEW	CONTINUING	CLOSED		
<b>American Indian and Alaska Native</b>														
American Indian														0
Alaska Native														0
Canadian Inuit, Metis or First Nation (please identify in narrative)														0
<b>Asian</b>														0
Chinese														0
Vietnamese														0
Korean														0
Laotian														0
Filipino														0
Japanese														0
South Asian														0
Asian Indian														0
Other Asian (please identify in narrative)														0
<b>Black/African American</b>														0
African American														0
African														0
Caribbean														0
Other Black (please identify in narrative)														0
<b>Hispanic or Latino</b>														0
Hispanic or Latino Mexican														0
Hispanic or Latino Central American														0
Hispanic or Latino South American														0
Other Hispanic or Latino (please identify in narrative)														0
Indigenous Mexican, Central American or South American (please identify)														0
<b>Pacific Islander</b>														0
Native Hawaiian														0
Guamanian or Chamorro														0
Samoan														0
Other Pacific Islander (please identify in narrative)														0
White														0
Slavic														0
Middle Eastern														0
North African														0
Multi-Racial (please identify in narrative)														0
Decline to Answer														0
Unknown														0
<b>TOTAL BY RACE/ETHNICITY</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Primary Language</b>														0
Cantonese														0
English														0
Russian														0
Spanish														0
Ukrainian														0
Vietnamese														0
Other (list language in narrative)														0
<b>TOTAL BY LANGUAGE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Gender Identification</b>														0
Female														0
Male														0
Transgender														0
Unknown or Declined to Say														0
<b>TOTAL BY GENDER</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Age</b>														0
0-6														0
7-12														0
13-17														0
18-24														0
25-59														0
60+														0
Unknown or Declined														0
<b>TOTAL BY AGE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Race/Ethnicity TOTAL, Gender TOTAL and Age TOTALs should match.

**EXHIBIT D-1: REIMBURSEMENT REQUEST**

<b>Exhibit D-1: REQUEST FOR REIMBURSEMENT</b>				
Requests for reimbursement and supporting documentation are due monthly by the 15th of the month, including:				
<ul style="list-style-type: none"> <li>• Request for Reimbursement with an authorized signature</li> <li>• General Ledger backup to support the requested amount</li> <li>• Monthly Activity Report (Exhibit D-2) showing numbers served and activities conducted during the month of request <i>(The Monthly Activity Report is NOT required on months when quarterly reports are due).</i></li> </ul>				
<b>Contractor:</b>	Metropolitan Family Services		<b>Contract Number:</b>	
<b>Address:</b>			<b>Report Period:</b>	
<b>Contact Person:</b>	Meghan Zook			
<b>Contact Info:</b>	<a href="mailto:meganz@dfs.email">meganz@dfs.email</a>			<b>FRC</b>
<b>Term:</b>	10/1/21-12/31/22			
Budget Category	Approved Budget (10/1/21-12/31/22)	Current Draw Request	Previously Requested	Balance
<b><u>Personnel</u></b>				
Family Resource Coordinator Region A .77fte	\$ 46,780.24	\$ -	\$ -	\$ 46,780.24
Family Resource Coordinator Region B .77fte	\$ 47,028.80	\$ -	\$ -	\$ 47,028.80
Supervision .0625fte	\$ 4,649.13	\$ -	\$ -	\$ 4,649.13
Fringe	\$ 28,601.83	\$ -	\$ -	\$ 28,601.83
	<b>\$ 127,060.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 127,060.00</b>
<b><u>Administration</u></b>				
Admin 15%	\$ 19,059.00	\$ -	\$ -	\$ 19,059.00
	<b>\$ 19,059.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 19,059.00</b>
<b><u>Program costs</u></b>				
Materials/Supplies	\$ -	\$ -	\$ -	\$ -
Mileage	\$ -	\$ -	\$ -	\$ -
Additional (please specify)				
	\$ -	\$ -	\$ -	\$ -
	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Budget</b>	<b>\$ 146,119.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 146,119.00</b>
<i>Clackamas County retains the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient that are pertinent to this Agreement.</i>				
<b>CERTIFICATION</b>				
<i>By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and represents actual expenditures, disbursements and cash receipts for the purposes and objectives set forth in the terms of the agreement.</i>				

## EXHIBIT D-2: MONTHLY ACTIVITY REPORT

**Agency:** Metropolitan Family Services

**Funded Service:** Family Resource Coordinator

**Program Contact:**

**Month:**

*This report covers the fiscal year starting **October 1, 2021 through December 31, 2022.** Complete the sections below as they apply to the group(s) targeted for services with this funding as outlined in your Work Plan.*

*Submit this report with monthly requests for reimbursement except on months when the quarterly report is submitted.*

- 1. Total number of participants served during the month with the funding allocated for this programming:**

Number of children:

Number of Families:

- 2. Activities that were conducted during the month with the funding allocated for this programming:**
- 3. Issues related to service delivery and how those issues were addressed.**

Person(s) completing this form:

Date:





November 24, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Urban Growth Management Agreement (UGMA)  
between the City of Happy Valley and Clackamas County-  
Happy Valley UGMA East

<b>Purpose/Outcome</b>	Consideration of a new Urban Growth Management Agreement (UGMA) between the County and the City of Happy Valley for areas located south and east of the city; this agreement outlines planning responsibilities for areas in portions of the former city of Damascus that the City is interested in potentially annexing and urbanizing in the future.
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	None
<b>Duration</b>	The UGMA will become effective upon execution of the agreement and continue for ten (10) years and will automatically renew for an additional ten (10) years if not terminated by either party.
<b>Previous Board Action/Review</b>	<i>May 11, 2021, Policy Session:</i> BCC reviewed UGMA draft and directed staff to finalize this document with city and proceed to adoption.
<b>Strategic Plan Alignment</b>	<p><i>1. How does this item align with your Department's Strategic Business Plan goals?</i> This item aligns with the Long-Range Planning program's purpose of providing land use and transportation plan development, analysis, coordination and public engagement services to residents; businesses; local, regional and state partners; and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.</p> <p><i>2. How does this item align with the County's Performance Clackamas goals?</i> The item aligns with the Performance Clackamas goal to "Build Public Trust through Good Government". Creating coordination</p>

<b>Counsel Review</b>	11/4/21 N Boderman
<b>Procurement Review</b>	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. If no, provide brief explanation: This item is an IGA between the county and the city.
<b>Contact Person</b>	Martha Fritzie, Principal Planner – Planning and Zoning Division, (503) 742-4529 (mfritzie@clackamas.us)
<b>Contract No.</b>	Not applicable

**BACKGROUND:**

As required by state statute, Clackamas County has an urban growth management agreement (UGMA) with every city in the county except Portland (because city of Portland lands within the county are so minimal). These UGMAs are necessary for management of areas of mutual interest to coordinate planning and service delivery so as to provide a smooth transition when lands are annexed and to provide certainty for property owners via consistent policies and standards for development. Each agreement is individually negotiated and pertains to specific issues between the County and that City.

It is important to understand that an UGMA agreement does not lead to immediate annexation of properties. It is simply a “political contract” for the jurisdictions to have in place for consideration of future annexation and provision of all urban services by specific providers in a targeted geographic area. This geographic area is considered the “area of interest” for the City.

The UGMA proposed for adoption today (“Happy Valley UGMA East”) has been developed cooperatively over the past several years to address land use coordination and annexation issues, and, most importantly, to clarify roles for urban planning and urban service provision for a portion of the former city of Damascus. Planning, engineering and legal staff from both the city and the county have reviewed and provided extensive comments, suggestions, and edits to the various drafts of the Happy Valley UGMA East.

The Happy Valley UGMA East will be a separate agreement from the existing UGMA with the city of Happy Valley and will apply to a different geographic area than the existing UGMA, which generally covers the urban areas west of the city to I-205 and south of the city to the urban growth boundary. No changes are being proposed to this existing UGMA, except that it would now be referred to as the “Happy Valley UGMA West”.

The Happy Valley UGMA East:

- Specifies that county Comprehensive Plan and zoning regulations continue to apply within the UGMA area until land is annexed into city and the county will continue to process all land use applications and permitting activities in such areas;
- Identifies the city as the jurisdiction that will ultimately be responsible for urbanizing lands within the UGMA area that are currently still in rural zoning districts, including:
  - Developing and adopting urban plans for such lands within the UGMA area, including urban public facilities plans;

- Coordinating with county staff and inviting county staff to participate in relevant advisory committees relevant to the development of urban plans for the area; and
- Working together with county staff to identify opportunities for land to provide employment uses, as well as lands for the development of affordable housing;
- Identifies certain conditions that need to be met for roadway segments to be transferred from the county to the city upon annexation of abutting properties.
- Identifies notification responsibilities for both the county and city as they relate to land use applications and other permitting activities; and
- Includes other general legal, term length and termination language, all of which has been drafted and reviewed by legal staff.

In May, 2021, the Board discussed the Happy Valley UGMA at a Policy Session and directed staff to finalize the document with city and proceed to adoption at a Business Meeting.

The Happy Valley UGMA East (attached) has been reviewed and approved by County Counsel and was approved and signed by the City of Happy Valley in October 2021.

**RECOMMENDATION:**

The Planning and Zoning Division respectfully recommends the Board approve the UGMA as submitted.

Respectfully submitted,

*Jennifer Hughes*

Jennifer Hughes, Planning Director  
Planning and Zoning Division

**CITY OF HAPPY VALLEY/CLACKAMAS COUNTY**  
**URBAN GROWTH MANAGEMENT AGREEMENT**

This Urban Growth Management Agreement (“UGMA” or “Agreement”), by and between the City of Happy Valley, an Oregon municipal corporation (“City”) and Clackamas County, a political subdivision of the State of Oregon (“County”) (collectively, the “Parties,” and each individually a “Party”).

**RECITALS**

WHEREAS, authority is conferred upon local government under ORS 190.010 to enter into an agreement for the performance of functions and activities that the local government, its officers or agencies has authority to perform; and

WHEREAS, the City and the County have a common interest in coordinated comprehensive plans, compatible land uses and coordinated planning of urban facilities within the Happy Valley Urban Planning Area East (“HVUPAE”), as described in Exhibit A to this Agreement; and

WHEREAS, the exchange of information should concentrate on issues that may have a significant impact on either Party and should not entail cumbersome procedural requirements that may increase the time necessary to expedite decision making; and

WHEREAS, OAR 660-003-0010 requires management plans for unincorporated areas within an urban growth boundary to be set forth in a statement submitted to the Land Conservation and Development Commission (“LCDC”) at the time of acknowledgement request; and

WHEREAS, OAR 660-011-0015 requires an urban growth management agreement to specify the entity responsible for the preparation, adoption and amendment of the public facility plan(s); and

WHEREAS, the City and County previously entered into an urban growth management agreement on January 30, 1992, and amended on June 19, 2001, and subsequently amended on November 18, 2013 for areas to the west and southwest of the existing City of Happy Valley (extending to the Veterans Memorial Highway), which is hereby referred to as the “UGMA WEST” and is a separate urban growth management agreement from this Agreement, which is hereby referred to as the “UGMA EAST”.

NOW THEREFORE, the Parties agree as follows:

## AGREEMENT

### 1. Definitions.

As used in this Agreement, the following words shall mean or include:

- 1.1 Comprehensive Plan. Any plan document as described in ORS 197.015(5) that is adopted by a Party and that applies within the HVUPAE.
  - 1.1.1 City Comprehensive Plan. The City of Happy Valley Comprehensive Plan.
  - 1.1.2 County Comprehensive Plan. The Clackamas County Comprehensive Plan.
- 1.2 Land Use Policies. The whole or any part of any comprehensive plan, subarea comprehensive plan, Title 16 of the City's Municipal Code ("Development Code"), the Clackamas County Zoning and Development Ordinance ("ZDO"), refinement plan, public facility plan developed under OAR Chapter 660, Division I, land use regulation as defined by ORS 197.015(11), or any other generally applicable policy regulating the use or development of land. As applied to Metro, "Land Use Policies" include Planning Goals and Objectives, Regional Urban Growth Goals and Objectives, Functional Plans, and Regional Framework Plans.
- 1.3 Happy Valley Urban Planning Area East ("HVUPAE"). The HVUPAE includes unincorporated land within the Portland Metropolitan Urban Growth Boundary ("UGB") located generally east of 172<sup>nd</sup> Avenue and west of 222<sup>nd</sup> Avenue, as illustrated on the map attached as Exhibit A to this Agreement.

### 2. Terms of this Agreement.

- 2.1 This UGMA EAST becomes effective as specified under Section 8.3, below, and shall continue thereafter for an initial term of 10 years, unless terminated as provided in this Section or modified consistent with Section 8.4. This Agreement automatically renews for one additional 10-year term unless, not later than 90 days prior to the expiration of the initial term of this UGMA, one of the Parties provides the other Party with written notice that it does not wish to renew the UGMA EAST, in which case this UGMA will automatically terminate upon completion of the initial 10-year term. Either Party may terminate this agreement at any time after providing at least 90 days written notice to the other Party.

### 3. General Provisions.

- 3.1 General Planning and Permitting Responsibilities
  - 3.1.1 Comprehensive Plan/Zoning Designations and Amendments. The County Comprehensive Plan and zoning shall apply to all unincorporated land within the HVUPAE until such time as those lands are annexed into the City. Unless

otherwise provided by law, the development of a comprehensive plan map amendment or zone change for the unincorporated areas within the HVUPAE shall be a coordinated joint effort of the Parties. The County shall be responsible for preparing and making a decision on all legislative and quasi-judicial comprehensive plan amendments/zone changes for areas within the HVUPAE not annexed to the City in coordination with the City and consistent with state law and the Metro Functional Plan. The City shall have the unrestricted right to review, comment on and appeal all legislative and quasi-judicial comprehensive plan amendments/zone changes processed by the County within the HVUPAE.

### **3.1.2**

Land Use Permitting Authority. The County Comprehensive Plan and land use regulations shall apply to an application for a permit or other land use review within the HVUPAE not annexed to the City. County shall retain responsibility and authority for all implementing regulations and land use actions for all unincorporated lands within the HVUPAE, until lands are annexed to the City.

For properties that annex into the City of Happy Valley in the HVUPAE, the City shall apply the underlying County Plan and zone provisions in accordance with the procedural framework of the City's Municipal Code until the City has adopted urban City Comprehensive Plan designations and zoning districts for the HVUPAE.

### **3.1.3**

Urban Plan Development. The Parties agree that the City shall be responsible for developing and adopting an urban Comprehensive Plan and zoning districts for areas that do not currently have urban designations within the HVUPAE, per Section 4 of this Agreement.

**3.1.4** Land Divisions. Land divisions that would create parcels smaller than 20 acres in size shall not occur within lands with a Rural Comprehensive Plan designation within the HVUPAE.

## **3.2** Annexation.

**3.2.1** Conditions Requiring Annexation. The owner(s) of property adjacent to the City (including by extension of a public right-of-way or body of water, per the City's annexation policies), who are seeking access to City-provided services (for example, Planning, Engineering, or Building Division permits) may be required to submit an annexation petition to the City.

**3.2.2** Annexation Consent. At the discretion of the Board of County Commissioners ("Board"), the County may provide consent for annexations, when such consent is required per ORS 222.170 or ORS 222.125 for properties utilizing county right-of-way for an annexation, if city agrees to accept the transfer of the section of the roadway being used to access the annexed property.

**3.2.3** Annexation Plan. Any City-initiated Annexation Plan shall be developed consistent with applicable state and regional laws. Opportunity shall be provided

to citizens, the County, active Citizen Planning Organizations (“CPOs”) and affected service providers to review and comment on the Annexation Plan prior to any annexation election. Annexation Plan(s) will include development of public facilities plan(s) for the Annexation Plan area(s).

### **3.3 Public Facilities.**

**3.3.1 Public Facilities Plans.** Except as identified in Section 4, the City shall coordinate the preparation or amendment of public facilities plans within the HVUPAE as may be required by OAR Chapter 660, Division 11 (Public Facilities Planning) and applicable sections of ORS Chapter 195 with the appropriate service providers. Upon annexation, an area within the HVUPAE shall be provided with public facilities services through a combination of City-provided services and by way of Intergovernmental Agreements (“IGAs”) with applicable service providers, which may include the following: sanitary storm services – Water Environment Services “WES”); water service providers – Sunrise Water Authority, Clackamas River Water; county road services – Clackamas County Department of Transportation and Development; fire prevention services – Clackamas Fire District No. 1; services related to the provision and maintenance of open space – Metro; mass transit services – Tri-Met; and, school facility planning – North Clackamas School District No. 12, Gresham-Barlow School District, and Centennial School District.

**3.3.2 New Service Districts.** County shall not form any new county service districts to serve any areas within the HVUPAE, nor shall it support the annexation of any land within the HVUPAE to any such districts or to any other service districts without the prior written consent of the City.

## **4. Planning for Urbanization of Rural Lands in the HVUPAE.**

**4.1 Planning authority.** The City shall be responsible for planning for any future urbanization of rural lands within the HVUPAE. The urbanization of rural lands within the HVUPAE will only occur upon annexation to the City. The City shall coordinate with the County Planning Division and other relevant County Department of Transportation and Development (“DTD”) staff regarding future urban planning and development activities and the transportation network in the HVUPAE. County staff shall be invited to participate in the proceedings of all relevant Technical Advisory Committees in the review of urban plans within the HVUPAE. The City shall notify and coordinate with the County on amendments to the City’s Transportation System Plan (“City TSP”).

**4.2 Land use and transportation planning in the HVUPAE.** Building off existing studies and previously completed planning work, the City of Happy Valley and the County will develop the following planning documents for the HVUPAE:

**4.2.1 Integrated Land Use and Transportation Plans (Urban Plans):**

The City may create detailed, integrated land use and transportation plans for “phases,” or portions of the HVUPAE that the City determines are of sufficient size to phase development and urban service provision in a cost-effective and efficient manner. These plans shall include all elements required for a full urban



comprehensive plan for the selected area.

**4.2.1.1 Coordination:** All integrated land use and transportation plans shall be coordinated with the County to ensure consistency with County transportation plans and other planning in adjacent unincorporated rural areas. The City shall lead this planning undertaking with County coordination and participation in all relevant committees.

**4.2.1.2 Notification:** The City shall notify the County Planning Director prior to the initiation of each phase of urban land use and transportation planning. Notification shall, at a minimum, include a map of the area to be planned and an estimated timeframe for adoption of an urban plan.

**4.2.1.3 Providing Employment Land:** The City and County recognize the importance of providing employment land to support stronger economic growth in the County and will work together to identify opportunities to provide such lands in the HVUPAE, to potentially include employment areas different than those identified as Metro Title 4 lands.

**4.2.1.4 Providing Affordable Housing Opportunities:** The City and County recognize the importance of providing land for the development of affordable housing in the County and will work together to identify opportunities to provide such lands in the HVUPAE.

**4.2.2 Clackamas County Transportation System Plan (“County TSP”):** An update of the County TSP will be developed for the Metro UGB area illustrated within Exhibit A beyond (east of) any areas inside the HVUPAE that are not part of an integrated land use and transportation plan that is adopted or actively being completed by the City. The County TSP update will plan for transportation improvements necessary to serve travel patterns that are expected in the future in and adjacent to the HVUPAE including, without limitation, those areas within the Metro UGB but outside the HVUPAE.

**4.3 State Highway System Improvements.** The City and County recognize the importance of working with the Oregon Department of Transportation (“ODOT”) to ensure that state transportation facilities be built/improved to accommodate expected population and employment growth in the HVUPAE and will utilize any subsequent land use and transportation plans to advocate for the timely development of the Sunrise Highway.

## 5. Other City Responsibilities.

**5.1** Functions. All functions relating to the subject matter of this Agreement not specifically listed in this Section or any Exhibit as being the responsibility of the City will remain the responsibility of County. City shall be responsible for the timely and effective distribution to County of studies, information, requests, data and personal communications in City's possession on any matter concerning coordination between the City and County and/or regarding any infrastructure or policy issues coordinated by County.

**5.2** Road Jurisdiction, Transfer and Condition. The City shall assume jurisdiction of the full width of any applicable segment of County road classified by the County as minor arterial, collector, connector, or local street that is within or immediately abutting an area annexed to the City within one year of the date of that annexation, assuming all provisions detailed below have been met. The transfer and assumption of jurisdiction shall be consistent with the provisions of ORS 373.270.

Concurrent with the date that a road is transferred, the County will upgrade the roadway or provide funds equivalent to the cost of a two-inch overlay over the existing pavement area, unless the road has a Pavement Condition Index (PCI) rating of 70 or higher, or the Parties mutually agree that overlay funds are not necessary for transfer. Alternatively, if a roadway or roadway section has a PCI of 50 or less, the City will only accept said roadway once a PCI of 70 or higher is achieved by the County or the Parties mutually agree upon a funding level equivalent to upgrading of the roadway to a PCI of 70 or higher.

**5.2.1** For any County minor arterial, collector, connector or local street within the City boundary that is being transferred, but subsequent to annexation, the County shall allow improvements to be constructed to City standards and defer permitting authority to the City. The City shall issue all appropriate permits directly to the developer.

**5.2.2** For any improvements to a County major arterial road within the City boundary, the County shall determine if City standards along the major arterial are acceptable to the County and do the following:

- A. If the City standards are acceptable to the County, the County shall allow all improvements to be constructed to City standards. The County shall issue all appropriate permits with City concurrence.
- B. If the proposed cross section standards are not acceptable to the County, the County shall require those improvements to be constructed to County standards. The County shall issue all appropriate permits.

**5.3. City Notice to and Coordination with the County and CPOs.**

**5.3.1.** The City shall provide notice to the County and the appropriate active CPOs at least 20 days prior to the first public hearing on all proposed annexations or extraterritorial service extensions into unincorporated areas.

**5.3.2.** The City shall provide notice to the County at least 20 days prior to the first scheduled public hearing on all proposed legislative changes to the City Comprehensive Plan or any quasi-judicial hearings regarding properties adjacent to unincorporated areas within the HVUPAE.

**5.3.3.** The City shall notify and coordinate with the County on amendments to the City TSP.

**5.3.4.** City shall provide notice and a service-provider comment letter to the applicable County Department in conjunction with the City's review of any land use application or building permit in which the proposed development activity might affect County facilities.

**6. Other County Responsibilities.**

**6.1. County Notice to and Coordination with the City for Lands in HVUPAE.**

**6.1.1.** The County shall provide notice to the City at least 20 days prior to the first scheduled public hearing on all proposed legislative changes to the County Comprehensive Plan text, implementing ordinances or other land use policies affecting land within the HVUPAE, and shall provide notice to the City at least 20 days prior to the first scheduled quasi-judicial public hearing regarding any properties adjacent to the City's incorporated area.

**6.1.2.** The County shall provide notice to the City at least 20 days prior to a staff decision on any Type II application for administrative action as provided in the ZDO for property within the HVUPAE.

**6.1.3.** The County shall notify and invite City staff to participate in or comment on all pre-application meetings for design review, conditional use permits, partitions, subdivisions or other significant development proposals within unincorporated areas of the HVUPAE at least 15 days prior to any such meeting.

**6.1.4.** Any amendments proposed by the County to the UGB within one mile of the HVUPAE will be reviewed jointly by the City and the County prior to submission to Metro.

**6.1.5.** In any County land use proceeding affecting property within the HVUPAE, the County shall enter all written comments received from the City into the public record and shall consider such written comments in the exercise of its planning and plan implementation responsibilities.

## 7. Mutual Indemnification

- 7.1 Subject to Article XI of the Oregon Constitution and ORS 30.260 to 30.300, the City will hold harmless, defend and indemnify the County, its elected officials, officers, and employees, for and against any claims or damages to property or injury to persons, resulting in whole or part from City's acts or omissions in performing any obligations under this Agreement.
- 7.2 Subject to Article XI of the Oregon Constitution and ORS 30.260 to 30.300, the County will hold harmless, defend and indemnify the City, its elected officials officers and employees for and against any claims or damages to property or injury to persons, resulting in whole or part from the County's acts or omissions in performing any obligation under this Agreement.

## 8. General Provisions.

8.1 Applicable Law. This Agreement shall be governed by Oregon law, without giving effect to the conflict of law provisions thereof, and the Parties agree to submit to the jurisdiction of the courts of the State of Oregon.

8.2 Insurance Coverage.

**8.2.1.** Commercial General Liability Insurance. Each of the Parties shall obtain and maintain at all times during the course of this Agreement commercial general liability insurance coverage pursuant to Oregon Tort Claims Act and subject to the limits of the Act covering Bodily Injury and Property Damage on an "occurrence" form in the amount of not less than \$1 Million per occurrence/\$2 Million general aggregate for the protection of the other Party, its officers, elected officials and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement.

**8.2.2.** Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew any Party's insurance coverage contemplated by this Agreement without 60 days written notice to the other Party. Any failure to comply with the provision will not affect the insurance coverage provided to the Party. The 60-day notice of cancellation provision shall be physically endorsed on to the policy.

**8.2.3.** The County may self-insure to meet the minimum insurance requirements of this Section 8.2, to the extent that it maintains a self-insurance program that complies with the insurance requirements applicable under this Section 8.2.

8.3 Effective Date and Term. This Agreement shall become effective on the last date signed below and shall continue in effect according to its Terms.

8.4 Amendment. This Agreement may be amended at any time consistent with Section 8.9 below.

**8.5**      Assignment. Except as otherwise provided herein, the Parties may not assign any of their rights or responsibilities under this Agreement without prior written consent from the other Party, except that a Party may delegate or subcontract for performance of any of their responsibilities under this Agreement.

**8.6**      Dispute Resolution.

**8.6.1.** Subject to mutually agreed upon extensions of time in writing, failure or unreasonable delay by any party to substantially perform any material provision of this agreement shall constitute default. In the event of an alleged default or breach of any term or condition of this agreement, the Party alleging such default or breach shall give the other Party not less than 30 days written notice specifying the nature of the alleged default and the manner in which the default may be cured satisfactorily. During this 30-day period, the Party shall not be considered in default for purposes of termination or instituting legal proceedings.

**8.6.2.** The Parties shall first attempt to resolve the dispute by negotiation, followed by mediation, if negotiation fails to resolve the dispute.

**8.6.3.** Step One: (Negotiation). Each Party will select one or more person(s) to negotiate on behalf of the entity they represent. Those person(s) shall then meet and attempt to resolve the issue. If the dispute is resolved, there shall be a written determination of such resolution, signed by a representative of each Party and ratified by the governing bodies that shall then be binding.

**8.6.4.** Step Two: (Mediation). If the dispute cannot be resolved within thirty (30) days at Step One, the Parties may submit the matter to mediation. The Parties shall attempt to agree on a mediator. If they cannot agree, the Parties shall request a list of five (5) mediators from an entity or firm providing mediation services. The Parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, each Party shall select one (1) name. The two selected shall select a third person who shall serve as the mediator. The common costs of mediation borne equally by the Parties with each bearing its own costs and fees. If the issue is resolved at this step, a written determination shall be signed by each Party and approved by the governing bodies.

**8.6.5.** Step Three (Legal Action). If the dispute remains unresolved following mediation, the Parties may seek remedy by appropriate proceedings filed in Clackamas County Circuit Court. In any such judicial proceeding, each Party shall be responsible for its own costs and fees.

**8.7**      Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, and all of such counterparts shall constitute one Agreement. Counterparts of executed signature pages may be attached to any one or more counterparts of this Agreement. To facilitate execution of this Agreement, the Parties may execute by facsimile or e-mail transmission counterparts of the signature pages.

- 8.8**      Severability. In the event a court of competent jurisdiction deems any portion or part of this Agreement to be unlawful or invalid, only that portion of part of the Agreement shall be considered unenforceable. The remainder of this Agreement shall continue to be valid.
- 8.9**      Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior oral or written agreements or representations relating to the HVUPAE. No waiver, consent, modification or change of terms of this Agreement shall bind the Parties unless in writing and signed by each party.
- 8.10**     Non-Exclusive Rights and Remedies. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive and shall be in addition to and cumulative with all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- 8.11**     Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- 8.12**     Waiver. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- 8.13**     Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- 8.14**     No Third-Party Beneficiary. Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.
- 8.15**     Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be mailed or sent by scanned document (e-mailed) or faxed with hard copy to follow by post, addressed as follows:

To City:            City of Happy Valley  
                         Economic & Community Development Department  
                         16000 SE Misty Drive  
                         Happy Valley, OR 97086

To County: Clackamas County Planning & Zoning Division  
150 Beaver Creek Rd.  
Oregon City, OR 97045

IN WITNESS WHEREOF, the respective Parties have caused to be signed on their behalf and enter into this Agreement on the last date indicated below.

CITY OF HAPPY VALLEY

By  \_\_\_\_\_  
Mayor

Date 10/26/2021

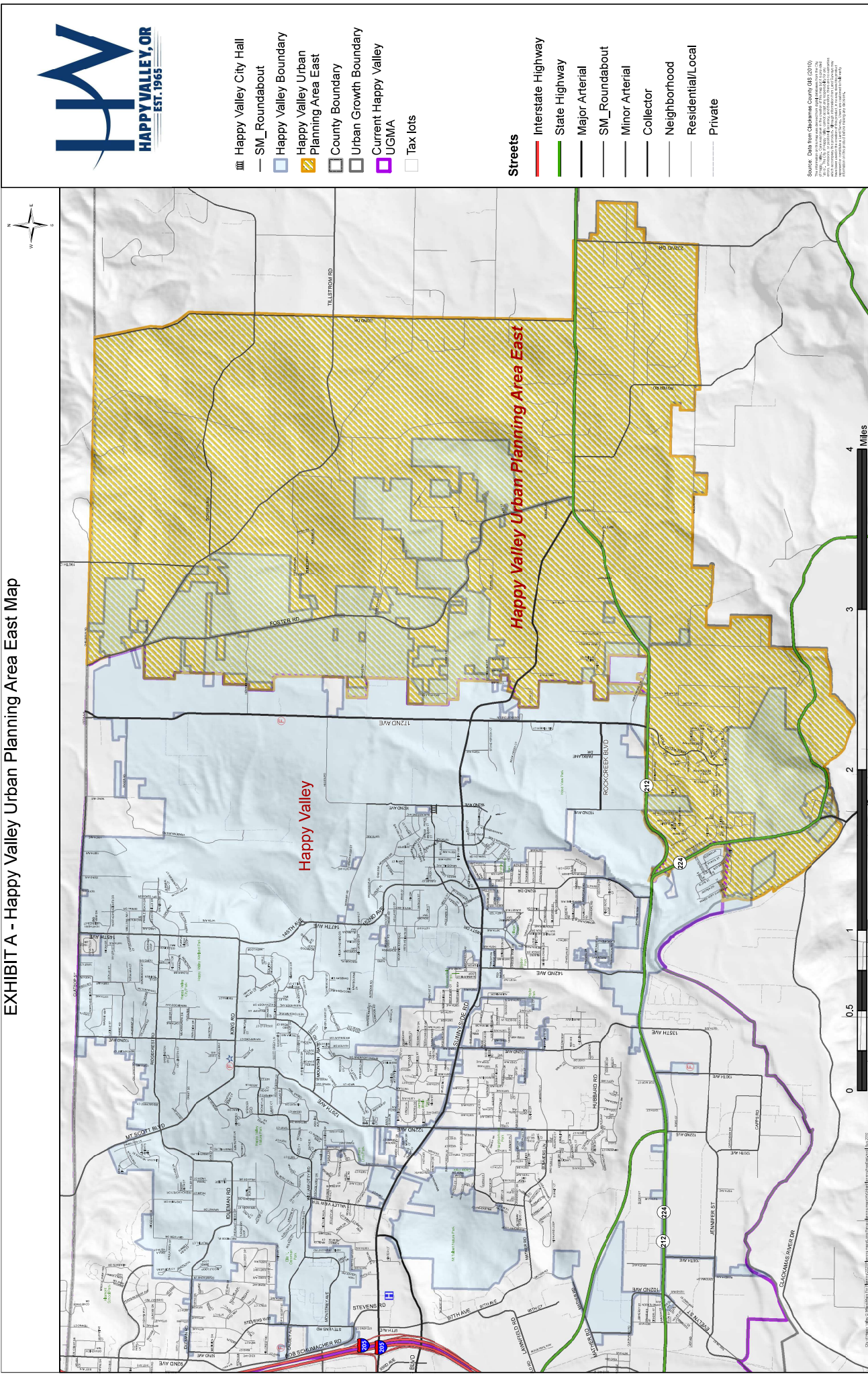
CLACKAMAS COUNTY

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

Date \_\_\_\_\_



# EXHIBIT A - Happy Valley Urban Planning Area East Map



- Happy Valley City Hall
- SM\_Roundabout
- Happy Valley Boundary
- Happy Valley Urban Planning Area East
- County Boundary
- Urban Growth Boundary
- Current Happy Valley UGMA
- Tax lots

- ### Streets
- Interstate Highway
  - State Highway
  - Major Arterial
  - SM\_Roundabout
  - Minor Arterial
  - Collector
  - Neighborhood
  - Residential/Local
  - Private

Source: Data from Clatsop County GIS (2010).  
This map was prepared by the City of Happy Valley, Oregon, and is intended for informational purposes only. It is not intended to be used for legal or financial purposes. The City of Happy Valley, Oregon, is not responsible for any errors or omissions on this map. The City of Happy Valley, Oregon, is not responsible for any damages or losses resulting from the use of this map. The City of Happy Valley, Oregon, is not responsible for any claims or lawsuits filed against the City of Happy Valley, Oregon, or any of its employees, officers, or agents, arising out of or in connection with the use of this map.



Dave DeVore  
Interim TS Director

## Technology Services

121 Library Court Oregon City, OR 97045

November 24, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

### **Approval of a Contract with Northstar Electrical Contractors, Inc. for the CBX Fiber WCCCA Connection**

<b>Purpose/Outcomes</b>	Provide a CBX Fiber connection in partnership with the City of Hillsboro.
<b>Dollar Amount and Fiscal Impact</b>	Contract Total Value: \$179,000.00. The invoice will be paid from the City of Hillsboro funds.
<b>Funding Source</b>	City of Hillsboro through a Joint procurement agreement.
<b>Duration</b>	Contract execution through June 30, 2022 With option for three (3) additional one (1) year renewals.
<b>Previous Board Action</b>	The Board previously approved an agreement with the City of Hillsboro for this new dark fiber agreement on August 5, 2021.
<b>Strategic Plan Alignment</b>	Direct support for County and Technology Service initiatives for: <ul style="list-style-type: none"><li>- Build a strong infrastructure</li><li>- Build public trust through good government</li></ul>
<b>Counsel Review</b>	AN, November 4, 2021
<b>Procurement Review</b>	Was this project processed through Procurement? Yes.
<b>Contact Person</b>	Duke Dexter, IS Project Coordinator, 503-722-6663
<b>Contract No.</b>	4629

#### **Background:**

Washing County Consolidated Communications Agency (WCCCA) is one of four 911 centers in the MAJCS (Metro Area Joint CAD System) that shares a regional Computer Aided Dispatch (CAD) system which is the brains for all 911 centers. Clackamas County (C-COM), Lake Oswego Communications (LOCOM) and Columbia 911 (C911) are all partners of this CAD system. It is important that the CAD Network be built on dark fiber that is owned and not commercially shared so that none of these 911 centers lose connectivity to all 4 of the partners involved in this project.

The four 911 centers have sought to ensure the highest levels of redundancy and resilience to provide a stable CAD environment, not only for the 911 partners, but also for all of the police, fire and Emergency Medical Service (EMS) providers who rely on the life safety information shared by 911 callers within these four jurisdictions.

This is a joint procurement project for connecting fiber in the City of Hillsboro. Clackamas Broadband eXchange (CBX) will provide the project management oversight of the entire construction process including, but not limited to, design/engineering, procurement of construction materials, oversight of construction and quality control. CBX will review all invoice from Northstar Electric and then pass them along to the City of Hillsboro for payment. The City of Hillsboro will pay all approved invoices from this project. When the new fiber project is complete, the City of Hillsboro will own, manage and maintain the new fiber infrastructure.

The project work is anticipated to begin immediately following contract signing. Substantial completion will be 60 days from the issuance of the notice to proceed, with final completion 90 days from notice to proceed.

**Procurement Process:**

This project advertised as a joint procurement with the City of Hillsboro pursuant to ORS 279A.210. The project advertised on September 16, 2021. Bids were publicly opened on October 12, 2021. The project received two (2) bids: Northstar Electrical Contractors, Inc., \$174,000.00, and Henkels & McCoy, Inc., \$191,244.00. After review of the bids, Northstar Electrical Contracts, Inc. was determined to be the lowest responsive bidder.

**Recommendation:**

Staff respectfully recommends that the Board approve and sign this joint public improvements contract with the City of Hillsboro and Northstar Electrical Contractors, Inc. for the WCCCA Fiber Connection.

Sincerely,

Dave Devore,  
Interim TS Director





**CLACKAMAS COUNTY**  
**PUBLIC IMPROVEMENT CONTRACT**  
 Contract #4629

This Public Improvement Contract (the "Contract") is a joint procurement pursuant to ORS 279A.210, and is made by and between the Clackamas County, a political subdivision of the State of Oregon, and the City of Hillsboro, hereinafter called "Owner," and **Northstar Electrical Contractors Inc.**, hereinafter called the "Contractor" (collectively the "Parties"), shall become effective on the date this Contract has been signed by all the Parties and all County approvals have been obtained, whichever is later.

Project Name: **#2021-79 CBX Fiber WCCCA Connection**

**1. Contract Price, Contract Documents and Work.**

The Contractor, in consideration of the sum of **one hundred seventy-nine thousand dollars (\$179,000.00)** (the "Contract Price"), to be paid to the Contractor by the City of Hillsboro in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Contract Documents (as defined in the Clackamas County General Conditions for Public Improvement Contracts (1/1/2020) ("General Conditions") referenced within the Instructions to Bidders), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents. The Contract Price is the amount contemplated by the Base Bid as indicated in the accepted Bid.

Also, the following documents are incorporated by reference in this Contract and made a part hereof:

- Notice of Contract Opportunity
- Supplemental Instructions to Bidders
- Bid Form
- Performance Bond and Payment Bond
- Supplemental General Conditions
- Payroll and Certified Statement Form
- Instructions to Bidders
- Bid Bond
- Public Improvement Contract Form
- Clackamas County General Conditions (1/1/2020)
- Prevailing Wage Rates
- Plans, Specifications and Drawings

"Owner," as used in the Clackamas County General Conditions (1/1/2020) ("General Conditions") shall also include the City of Hillsboro.

**2. Representatives.**

Contractor has named Jesse Culp as its Authorized Representative to act on its behalf. Owner designates, or shall designate, its Authorized Representative as indicted below (check one):

Unless otherwise specified in the Contract Documents, the Owner designates Duke Dexter and Michael Lucas as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment, authorization, and to carry out the responsibilities of the Owner. Duke Dexter shall serve as Owner's project manager ("Project Manager") for the project.

Name of Owner's Authorized Representative shall be submitted by Owner in a separate writing.

**3. Key Persons.**

The Contractor's personnel identified below shall be considered Key Persons and shall not be replaced during the project without the written permission of Owner, which shall not be unreasonably withheld. If the Contractor intends to substitute personnel, a request must be given to Owner at least 30 days prior to the

intended time of substitution. When replacements have been approved by Owner, the Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the project concurrently. Once a replacement for any of these staff members is authorized, further replacement shall not occur without the written permission of Owner. The Contractor's project staff shall consist of the following personnel:

**Project Executive:** Jesse Culp shall be the Contractor's project executive, and will provide oversight and guidance throughout the project term.

**Project Manager:** Robbie Federico shall be the Contractor's project manager and will participate in all meetings throughout the project term.

**Job Superintendent:** Dave Elhard shall be the Contractor's on-site job superintendent throughout the project term.

**Project Engineer:** Adam Suminski shall be the Contractor's project engineer, providing assistance to the project manager, and subcontractor and supplier coordination throughout the project term.

#### **4. Contract Dates.**

COMMENCEMENT DATE: Upon Issuance of Notice to Proceed ("NTP")

SUBSTANTIAL COMPLETION DATE: 60 days from NTP

FINAL COMPLETION DATE: 90 days from NTP

Time is of the essence for this Contract. It is imperative that the Work in this Contract reach Substantial Completion and Final Completion by the above specified dates.

#### **5. Insurance Certificates.**

In accordance with Section G.3.5 of the General Conditions, Contractor shall furnish proof of the required insurance naming Clackamas County and the City of Hillsboro as additional insured. Insurance certificates may be returned with the signed Contract or may be emailed to [Procurement@clackamas.us](mailto:Procurement@clackamas.us).

**6. Bonds.** Contractor shall furnish the bonds required under the General Conditions. The bonds shall be for the benefit of both Clackamas County and the City of Hillsboro.

#### **7. Tax Compliance.**

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, 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.

**8. Confidential Information.**

Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to Owner. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed confidential information of Owner ("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 purpose unless specifically authorized in writing under this Contract.

**9. Counterparts.**

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

**10. Integration.**

All provisions of state law required to be part of this Contract, whether listed in the General or Special Conditions or otherwise, are hereby integrated and adopted herein. Contractor acknowledges the obligations thereunder and that failure to comply with such terms is a material breach of this Contract.

The Contract Documents constitute the entire agreement between the parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

**11. 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 including, but not limited to, compliance with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default.

**12. Responsibility for Taxes.** Contractor is solely responsible for payment of any federal, state, or local taxes required as a result of the Contract or the Work including, but not limited, to payment of the corporate activity tax imposed under enrolled HB 3427 (2019 Oregon regular legislative session). Contractor may not include its federal, state, or local tax obligations as part of the cost to perform the Work.

**13. Payments.** Contractor payments will be handled as follows: progress payments will be submitted to the Project Manager for review and approval. Approved payment requests will be sent to the City of Hillsboro by the Project Manager where finalized payments will be paid to the Contractor by the City of Hillsboro. Retainage withholdings, if any, and any other amounts authorized to be withheld under this Contract will be withheld by the City of Hillsboro. The City of Hillsboro is solely responsible for the payment of the Contract Price to

Contractor under this Contract. Contractor shall have no recourse against Clackamas County for any unpaid Contract Price amounts that may be due and owing.

**In witness whereof**, Clackamas County executes this Contract and the Contractor does execute the same as of the day and year first above written.

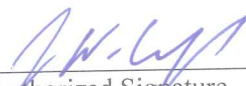
Contractor DATA:  
**Northstar Electrical Contractors Inc.**  
**11055 SW Clay Street**  
**Sherwood, Oregon 97140**

Contractor CCB # 90454    Expiration Date: 4/24/2023  
Oregon Business Registry # 341312-84    Entity Type: DBC                      State of Formation: Oregon

*Payment information will be reported to the IRS under the name and taxpayer ID# provided by the Contractor. Information must be provided prior to contract approval. Information not matching IRS records could subject Contractor to 28 percent backup withholding.*

Northstar Electrical Contractors Inc.

Clackamas County

  
\_\_\_\_\_  
Authorized Signature                      Date  
**Jesse Culp    President**  
\_\_\_\_\_  
Name / Title Printed

\_\_\_\_\_  
Chair    Date  
  
\_\_\_\_\_  
Recording Secretary

City of Hillsboro  
DocuSigned by:  
  
\_\_\_\_\_  
0FC2577717B047B...  
Robby Hammond, City Manager

APPROVED AS TO FORM  
  
\_\_\_\_\_  
County Counsel    Date



# CLACKAMAS COUNTY PUBLIC IMPROVEMENT CONTRACT OPPORTUNITY

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**CLACKAMAS COUNTY  
NOTICE OF PUBLIC IMPROVEMENT CONTRACT OPPORTUNITY**

**INVITATION TO BID #2021-79  
CBX Fiber WCCCA Connection  
September 16, 2021**

Clackamas County (“County”) and the city of Hillsboro are conducting a joint procurement pursuant to ORS 279A.210 through its Board of County Commissioners and will be accepting sealed bids for the **CBX Fiber WCCCA Connection** Project until **October 12, 2021, 2:00 PM**, Pacific Time, (“Bid Closing”) at the following location:

**DELIVER BIDS TO:** Clackamas County Procurement Division via email to [procurement@clackamas.us](mailto:procurement@clackamas.us)

Bidding Documents can be downloaded from the state of Oregon procurement website (“OregonBuys”) at the following address: <https://oregonbuys.gov/bs0/view/login/login.xhtml>, Document No.S-C01010-00000779.

Prospective Bidders will need to sign in to download the information and that information will be accumulated for a Plan Holder's List. Prospective Bidders are responsible for obtaining any Addenda from Website listed above.

Project Estimate: \$250,000.00

**Contact Information**

Procurement Process and Technical Questions: Ryan Rice, [rrice@clackamas.us](mailto:rrice@clackamas.us).

Bids will be opened and publicly read aloud at the above Delivery address after the Bid Closing. Bid results will also be posted to the OregonBuys listing shortly after the opening.

**Prevailing Wage**

Prevailing Wage Rates requirements apply to this Project because the maximum compensation for all Owner-contracted Work is more than \$50,000. Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates. The Bureau of Labor and Industries (BOLI) wage rates and requirements set forth in the following BOLI booklet (and any listed amendments to that booklet), which are incorporated herein by reference, apply to the Work authorized under this Agreement:

PREVAILING WAGE RATES for Public Works Contracts in Oregon, July 1, 2021, which can be downloaded at the following web address: [http://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx)  
The Work will take place in Clackamas County, Oregon.

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



## CLACKAMAS COUNTY PUBLIC IMPROVEMENT CONTRACT

### INSTRUCTIONS TO BIDDERS

Clackamas County Local Contract Review Board Rules (“LCRB Rules”) govern this procurement process. LCRB Rules may be found at: <http://www.clackamas.us/code/documents/appendixc.pdf>. The Instructions to Bidders is applicable to the procurement process for Clackamas County, or any component unit thereof identified on the Notice of Public Improvement Contract Opportunity, herein after referred to as the “Owner.”

#### **Article 1. Scope of Work**

The work contemplated under this contract with the Owner, includes all labor, materials, transportation, equipment and services necessary for, and reasonably incidental to, the completion of all construction work in connection with the project described in the Project Manual which includes, but is not necessarily limited to, the Notice of Public Improvement Contract Opportunity, Instructions to Bidders, Supplemental Instructions to Bidders, Bid Form, Bid Bond, Public Improvement Contract Form, Performance Bond, Payment Bond, Clackamas County General Conditions for Public Improvement Contracts (1/1/2020), Supplemental General Conditions, and Plans, Specifications and Drawings.

#### **Article 2. Examination of Site and Conditions**

Before making a Bid, the Bidder shall examine the site of the work and ascertain all the physical conditions in relation thereto. The Bidder shall also make a careful examination of the Project Manual including the plans, specifications, and drawings and other contract documents, and shall be fully informed as to the quality and quantity of materials and the sources of supply of the materials. Failure to take these steps will not release the successful Bidder from entering into the contract nor excuse the Bidder from performing the work in strict accordance with the terms of the contract at the

price established by the Bid.

The Owner will not be responsible for any loss or for any unanticipated costs, which may be suffered by the successful Bidder, as a result of such Bidder's failure to be fully informed in advance with regard to all conditions pertaining to the work and the character of the work required, including site conditions. No statement made by an elected official, officer, agent, or employee of the Owner in relation to the physical or other conditions pertaining to the site of the work will be binding on the Owner, unless covered by the Project Manual or an Addendum.

#### **Article 3. Interpretation of Project Manual and Approval of Materials Equal to Those Provided in the Specifications**

If any Bidder contemplating submitting a Bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications or forms of contract documents, or detects discrepancies or omissions, such Bidder may submit to the Architect (read "Engineer" throughout in lieu of Architect as appropriate) a written request for an interpretation thereof at least ten (10) calendar days prior to the date set for the Bid Closing.

When a prospective Bidder seeks approval of a particular manufacturer's material, process or item of equal value, utility or merit other than that designated by the Architect in the Project Manual, the Bidder may submit to the Architect a written request for approval of such substitute at least ten (10) calendar days prior to the date set for the Bid Closing. The prospective Bidder submitting the request will be responsible for its prompt delivery.

Requests of approval for a substitution from that specified shall be accompanied by samples, records of performance, certified copies of tests by

impartial and recognized laboratories, and such other information as the Architect may request.

To establish a basis of quality, certain processes, types of machinery and equipment or kinds of materials may be specified in the Project Manual either by description of process or by designating a manufacturer by name and referring to a brand or product designation or by specifying a kind of material. Whenever a process is designated or a manufacturer's name, brand or item designation is given, or whenever a process or material covered by patent is designated or described, it shall be understood that the words "or approved equal" follow such name, designation or description, whether in fact they do so or not.

Any interpretation of the Project Manual or approval of manufacturer's material will be made only by an Addendum duly issued. All Addenda will be posted to the ORPIN listing and will become a part of the Project Manual. The Owner will not be responsible for any other explanation or interpretation of the Project Manual nor for any other approval of a particular manufacturer's process or item for any Bidder.

When the Architect approves a substitution by Addendum, it is with the understanding that the Contractor guarantees the substituted article or material to be equal or better than the one specified.

#### **Article 4. Security to Be Furnished by Each Bidder**

Each Bid must be accompanied by either 1) a cashier's check or a certified check drawn on a bank authorized to do business in the State of Oregon, or 2) a Bid bond described hereinafter, executed in favor of the Owner, for an amount equal to ten percent (10%) of the total amount Bid as a guarantee that, if awarded the contract, the Bidder will execute the contract and provide a performance bond and payment bond as required. The successful Bidder's check or Bid bond will be retained until the Bidder has entered into a contract satisfactory to Owner and furnished a one hundred percent (100%) performance bond and one hundred percent (100%) payment bond. The Owner

reserves the right to hold the Bid security as described in Article 10 hereof. Should the successful Bidder fail to execute and deliver the contract as provided for in Article 12 hereof, including a satisfactory performance bond and payment bond within twenty (20) calendar days after the Bid has been accepted by the Owner, then the contract award made to such Bidder may be considered canceled and the Bid security may be forfeited as liquidated damages at the option of the Owner. The date of the acceptance of the Bid and the award of the contract as contemplated by the Project Manual shall mean the date of acceptance specified in the Notice of Intent to Award.

#### **Article 5. Execution of Bid Bond**

Should the Bidder elect to utilize a Bid bond as described in Article 4 in order to satisfy the Bid security requirements, such form must be completed in the following manner:

- A. Bid bonds must be executed on the County forms, which will be provided to all prospective Bidders by the Owner.
- B. The Bid bond shall be executed on behalf of a bonding company licensed to do business in the State of Oregon.
- C. In the case of a sole individual, the bond need only be executed as principal by the sole individual. In the case of a partnership, the bond must be executed by at least one of the partners. In the case of a corporation, the bond must be executed by stating the official name of the corporation under which is placed the signature of an officer authorized to sign on behalf of the corporation followed by such person's official capacity, such as president, etc. The corporation seal should then be affixed to the bond.
- D. The name of the surety must be stated in the execution over the signature of its duly authorized attorney-in-fact and accompanied by the seal of the surety corporation.

## **Article 6. Execution of the Bid Form**

Each Bid shall be made in accordance with: (i) the sample Bid Form accompanying these instructions; (ii) the appropriate signatures for a sole individual, partnership, corporation or limited liability corporation shall be added as noted in Article 5C above; (iii) numbers pertaining to base Bids shall be stated both in writing and in figures; and (iv) the Bidder's address shall be typed or printed.

The Bid Form relates to Bids on a specific Project Manual. Only the amounts and information asked for on the Bid Form furnished will be considered as the Bid. Each Bidder shall Bid upon the work exactly as specified and provided in the Bid Form. The Bidder shall include in the Bid a sum to cover the cost of all items contemplated by the Contract. The Bidder shall Bid upon all alternates that may be indicated on the Bid Form. When Bidding on an alternate for which there is no charge, the Bidder shall write the words "No Charge" in the space provided on the Bid Form. If one or more alternates are shown on the Bid Form, the Bidder shall indicate whether each is "add" or "deduct."

## **Article 7. Prohibition of Alterations to Bid**

Bids that are incomplete, or contain ambiguities or have differing conditions required by the Bidder, including requested changes or exceptions to the Public Improvement Contract form or other portions of the Project Manual, may be rejected in Owner's sole and absolute discretion.

## **Article 8. Submission of Bid**

Each Bid shall be sealed in an envelope, properly addressed to the Owner, showing on the outside of the envelope the name of the Bidder and the name of the project. Bids will be received at the time and place stated in the Notice of Public Improvement Contract Opportunity.

## **Article 9. Bid Closing and Opening of Bids**

All Bids must be received by the Owner at the place and time set for the Bid Closing. Any Bids received after the scheduled Bid Closing time for

receipt of Bids will be rejected.

At the time of opening and reading of Bids, each Bid received will be publicly opened and read aloud, irrespective of any irregularities or informalities in such Bids.

Generally, Bid results will be posted to the Procurement Website within a couple hours of the opening.

## **Article 10. Acceptance or Rejection of Bids by Owner**

Unless all Bids are rejected, the Owner will award a contract based on the lowest responsive Bid from a responsible Bidder. If that Bidder does not execute the contract, it will be awarded to the next lowest responsible Bidder or Bidders in succession.

The Owner reserves the right to reject all Bids and to waive minor informalities. The procedures for contract awards shall be in compliance with the provisions of the LCRB Rules in effect at that time.

The Owner reserves the right to hold the Bid and Bid security of the three lowest Bidders for a period of thirty (30) calendar days from and after the time of Bid opening pending award of the contract. Following award of the contract the Bid security of the three lowest Bidders may be held twenty (20) calendar days pending execution of the contract. All other Bids will be rejected and Bid security will be returned.

In determining the lowest Bidder, the Owner reserves the right to take into consideration any or all authorized base Bids as well as alternates or combinations indicated in the Bid Form.

If no Bid has been accepted within thirty (30) calendar days after the opening of the Bids, each of the three lowest Bidders may withdraw the Bid submitted and request the return of the Bid security.

## **Article 11. Withdrawal of Bid**

At any time prior to the Bid Closing, a Bidder may withdraw its Bid. This will not preclude the

submission of another Bid by such Bidder prior to the time set for the Bid Closing.

After the time set for the Bid Closing, no Bidder will be permitted to withdraw its Bid within the time frames specified in Article 10 for award and execution, except as provided for in that Article.

#### **Article 12. Execution of Contract, Performance Bond and Payment Bond**

The Owner will provide the successful Bidder with contract forms within seven (7) calendar days after the completion of the award protest period. The Bidder is required to execute the contract forms as provided, including a performance bond and a payment bond from a surety company licensed to do surety business in the State of Oregon, within seven (7) calendar days after receipt of the contract forms. The contract forms shall be delivered to the Owner in the number called for and to the location as instructed by the Owner.

#### **Article 13. Recyclable Products**

Contractors will use recyclable products to the maximum extent economically feasible in the performance of the Contract.

#### **Article 14. Clarification or Protest of the Solicitation Document or Specifications**

Any request for clarification or protest of the solicitation document or specifications must be submitted in the manner provided for in the applicable section of the LCRB Rules to the Procurement Representative referenced in the Notice of Public Improvement Contract Opportunity.

A protest of the Solicitation Document must be received within seven (7) business days of the issuance of the Bid or within three (3) business days of issuance of an addendum.

Requests for clarification may be submitted no less than five (5) business days prior to the Bid Closing Date.

#### **Article 15. Protest of Intent to Award**

Owner will name the apparent successful Bidder in a "Notice of Intent to Award" letter. Identification of the apparent successful Bidder is procedural only and creates no right in the named Bidder to the award of the contract. Competing Bidders will be notified by publication of the Notice of Intent to Award on the Clackamas County Procurement Website of the selection of the apparent successful Bidder(s) and Bidders 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 C-049-0450. Any award protest must be in writing and must be delivered by hand delivery or mail to the Procurement Division Director at: Procurement Division, 2051 Kaen Road, Oregon City, OR 97045.

#### **Article 16. Disclosure of First-Tier Subcontractors**

Within two (2) working hours after the Bid Closing, all Bidders shall submit to the County a disclosure form identifying any first-tier subcontractors (those entities that would be contracting directly with the prime contractor) that will be furnishing labor and materials on the contract, if awarded, whose subcontract value would be equal to or greater than: (a) Five percent (5%) of the total contract price, but at least \$15,000; or (b) \$350,000, regardless of the percentage of the total contract price.

Disclosures may be submitted with the Bid or may be hand delivered to the Bid Closing address or emailed to [procurement@clackamas.us](mailto:procurement@clackamas.us).



**CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT**

**SUPPLEMENTAL INSTRUCTIONS TO BIDDERS**

**Project Name: #2021-79 CBX Fiber WCCCA Connection**

**The following modify the Clackamas County “Instructions to Bidders” for this Project. Where a portion of the Instructions to Bidders has been modified by these Supplemental Instructions to Bidders, the unaltered portions shall remain in effect.**

- 1. Closed buildings:** The County is requiring all bids for this project be electronically submitted. Complete Bids (including all attachments) must be received by the closing time and date 2:00 p.m. Pacific Time, October 12, 2021. The Bid must be emailed to the following address: [Procurement@clackamas.us](mailto:Procurement@clackamas.us). **The email subject line must read “Bid for # #2021-79 CBX Fiber WCCCA Connection title.”** Upon receiving of the bid, the County will send bidders an email confirmation acknowledging receipt. Bids delayed or lost by email system filtering or failures may be considered at Clackamas County’s sole and absolute discretion.

**Bids will be publicly read aloud via the computer application, Zoom. Bidders will be allowed to video conference or listen by phone to the bid results. The projects Zoom meeting can be accessed via the information below:**

Join Zoom Meeting

<https://clackamascounty.zoom.us/j/82931908673?pwd=QzVmVTR1OUJVQUtoMWtGRXFGWnFIQT09>

Meeting ID: 829 3190 8673

Passcode: 039012

One tap mobile

+16699006833,,82931908673# US (San Jose)

+12532158782,,82931908673# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Washington DC)

**\*\*The Apparent Low bid results will be posted to the projects OPRIN listing as soon as possible following the bid opening.**

2. **Good Faith Effort:** Clackamas County encourages participation in contracts by Historically Underrepresented Businesses. “Historically Underrepresented Businesses” are State of Oregon-certified and self-identified minority, women and emerging small business as well as firms that are certified federally or by another state or entity with substantially similar requirements as the State of Oregon.

Bidders must perform Good Faith Effort (defined below) and submit **Form 1 and Form 2** for the Bidders Bid to be considered responsive. **Form 1 and Form 2** must be submitted within **two (2) hours** after the Closing Date and Time. Form 1 and Form 2 may be submitted by hand delivery to the location the Bid was due or may email the completed Forms to [Procurement@clackamas.us](mailto:Procurement@clackamas.us). “Good Faith Effort” is a requirement of a prime contractor to reach out to at least three Historically Underrepresented Business Subcontractors for each division of work that will be subcontracted out and to complete the required forms. If fewer than three Historically Underrepresented Business Subcontractors are reasonably available for a particular division of work, the Bidder must specifically note the reason for there being fewer than three contacts. The outreach should be performed with sufficient time to give the subcontractors at least 5 calendar days to respond to the opportunity. Form 3, which documents the actual amount of subcontractors on the project, must be submitted with the project final pay application. Compliance with the Good Faith Effort and submission of Forms 1, 2 and 3 is a contractual requirement for final payment.

The sufficiency of the documentation or the performance of Good Faith Effort shall be in the sole and absolute determination of Clackamas County. Only those Bidders that Clackamas County has determined have not sufficiently performed Good Faith Effort shall have protest rights of the determination for such Bidder. No Bidder shall have protest rights of the sufficiency of any other Bidder completing Good Faith Effort.



**CLACKAMAS COUNTY  
GOOD FAITH EFFORT  
SUBCONTRACTOR AND SELF-PERFORMED WORK LIST  
(FORM 1)**

**Prime Contractor Name:**  
**Project Name: #2021-79 CBX**  
**Fiber WCCCA Connection**

**Total Contract Amount:**

**PRIME SELF-PERFORMING:** Identify below **ALL** GFE Divisions of Work (DOW) to be self-performed. Good Faith Efforts are otherwise required.

<b>DOW BIDDER WILL SELF-PERFORM (GFE not required)</b>	
all	

**PRIME CONTRACTOR SHALL DISCLOSE AND LIST ALL SUBCONTRACTORS**, including those Minority-owned, Woman-owned, and Emerging Small Businesses (“M/W/ESB”) that you intend to use on the project. Hand delivery to Procurement, 2051 Kaen Road, Oregon City, OR 97045 or email to [procurement@clackamas.us](mailto:procurement@clackamas.us) within 2 hours of the BID/Quote Closing Date/Time

<b>LIST ALL SUBCONTRACTORS BELOW</b> Use <b>correct legal name</b> of Subcontractor (No Assumed Business Names)	<b>Division of Work</b> (Painting, electrical, landscaping, etc.) List <b>ALL</b> DOW performed by Subcontractors	<b>DOLLAR AMOUNT OF SUBCONTRACT</b>	If Certified or self-reporting MBE/WBE/ESB Subcontractor  Check box <input checked="" type="checkbox"/>		
			MBE	WBE	ESB
<b>Name</b> <b>Address</b> <b>City/St/Zip</b> <b>Phone#</b> <b>OCCB#</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Name</b> <b>Address</b> <b>City/St/Zip</b> <b>Phone#</b> <b>OCCB#</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Name</b> <b>Address</b> <b>City/St/Zip</b> <b>Phone#</b> <b>OCCB#</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Name</b> <b>Address</b> <b>City/St/Zip</b> <b>Phone#</b> <b>OCCB#</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**CLACKAMAS COUNTY  
GOOD FAITH EFFORT  
M/W/ESB CONTACT / BIDS RECEIVED LOG  
(FORM 2)**

Prime Contractor:  
Project: #2021-79  
CBX Fiber WCCCA Connection

Prime Contractor must contact or endeavor to contact at least 3 M/W/ESB Subcontractors for each Division of Work. Prime Contractor shall record its contacts with M/W/ESB Subcontractors through use of this log (or equivalent) entering all required information. All columns shall be completed where applicable. Additional forms may be copied if needed.

NAME OF M/W/ESB SUBCONTRACTOR	Divisions of Work (Painting, electrical, landscaping, etc.)	Date Solicitation Letter / Fax Sent	PHONE CONTACT		BID ACTIVITY Check Yes or No			REJECTED BIDS (if bid received & not used)		Notes
			Date of Call	Person Receiving Call	Will Bid	Bid Received	Bid Used	Bid Amount	Reason Not Used (Price, Scope or Other. If Other, explain in Notes>>)	
					<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
					<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
					<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
					<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
					<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
					<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
					<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			

**CLACKAMAS COUNTY  
GOOD FAITH EFFORT  
PROJECT COMPLETION REPORT  
(FORM 3)**

Prime Contractor Name:  
Project Name: #2021-79 CBX  
Fiber WCCCA Connection

Total Contract Amount:

Complete this form and submit with your request for final payment upon the project completion. Please list all subcontractors used for the project. Use additional sheets as necessary.

<p align="center"><u>LIST ALL SUBCONTRACTORS BELOW</u> Use <u>correct legal name</u> of Subcontractor (No Assumed Business Names)</p>	<p align="center"><b>Division of Work</b> (Painting, electrical, landscaping, etc.) List <b>ALL</b> DOW performed by Subcontractors</p>	<p align="center"><b>FINAL DOLLAR AMOUNT OF SUBCONTRACT</b></p>	<p align="center">If Certified or self-reported MBE/WBE/ESB Subcontractor</p>		
			<p align="center">Check box <input checked="" type="checkbox"/></p>		
			MBE	WBE	ESB
<p>Name Address City/St/Zip Phone# OCCB#</p>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Name Address City/St/Zip Phone# OCCB#</p>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Name Address City/St/Zip Phone# OCCB#</p>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Name Address City/St/Zip Phone# OCCB#</p>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Name Address City/St/Zip Phone# OCCB#</p>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Name Address City/St/Zip Phone# OCCB#</p>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

BY SIGNING BELOW, I HEREBY CERTIFY THAT THE ABOVE LISTED FIRMS HAVE BEEN UTILIZED BY OUR COMPANY IN THE AMOUNTS REPRESENTED ABOVE AND THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE AND ACCURATE. .

\_\_\_\_\_  
Authorized Signature of Contractor Representative

\_\_\_\_\_  
Date



CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT

BID BOND

Project Name: #2021-79 CBX Fiber WCCCA Connection

We, NORTHSTAR ELECTRICAL CONTRACTORS, INC., as "Principal,"  
(Name of Principal)

and MARKEL INSURANCE COMPANY, an ILLINOIS Corporation,  
(Name of Surety)

authorized to transact Surety business in Oregon, as "Surety," hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns to pay unto Clackamas County and the City of Hillsboro ("Obligee") the sum of (\$ \*\*10%\*\* )

NOT TO EXCEED TEN PERCENT OF AMOUNT BID\*\* dollars.

**WHEREAS**, the condition of the obligation of this bond is that Principal has submitted its proposal or bid to an agency of the Obligee in response to Obligee's procurement document (No2021-79) for the project identified above which proposal or bid is made a part of this bond by reference, and Principal is required to furnish bid security in an amount equal to ten (10%) percent of the total amount of the bid pursuant to the procurement document.

**NOW, THEREFORE**, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

**IN WITNESS WHEREOF**, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this 11th day of OCTOBER, 2021.

Principal: NORTHSTAR ELECTRICAL CONTRACTORS, INC. Surety: MARKEL INSURANCE COMPANY

By: [Signature]  
Signature  
President  
Official Capacity

By: Attorney-In-Fact, ROBIN BAIRD  
[Signature]  
Name

Attest: [Signature]  
Corporation Secretary

2103 CITY WEST BLVD STE 1300  
Address

HOUSTON TX 77042  
City State Zip

541-741-0550 541-741-1674  
Phone Fax

# JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Michelle Bench, Robin Baird, Kyle Hudson, Keith Yam, Ken Price, William Kaufmann

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, any Senior Vice President, Vice President, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 3rd day of September, 2021.

SureTec Insurance Company

By: Michael C. Keimig  
Michael C. Keimig, President



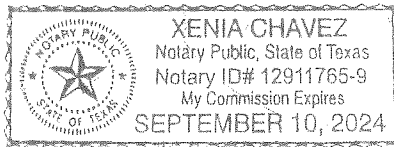
Markel Insurance Company

By: Lindy Jennings  
Lindy Jennings, Vice President

State of Texas  
County of Harris:

On this 3rd day of September, 2021 A. D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



By: Xenia Chavez  
Xenia Chavez, Notary Public  
My commission expires 9/10/2024

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 11th day of OCTOBER, 2021.

SureTec Insurance Company

By: M. Brent Beaty  
M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By: Andrew Marquis  
Andrew Marquis, Assistant Secretary



CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT

BID FORM

PROJECT: #2021-79 CBX Fiber WCCCA Connection  
 BID CLOSING: October 12, 2021, 2:00 PM, Pacific Time  
 BID OPENING: October 12, 2021, 2:05 PM, Pacific Time

FROM: NorthStar Electrical Contractors, Inc.  
 Bidder's Name (must be full legal name, not ABN/DBA)

TO: Clackamas County  
 Procurement Division – procurement@clackamas.us

1. Bidder is (check one of the following and insert information requested):

- a. An individual; or
- b. A partnership registered under the laws of the State of \_\_\_\_\_; or
- c. A corporation organized under the laws of the State of Oregon; or
- d. A limited liability corporation organized under the laws of the State of \_\_\_\_\_;

and authorized to do business in the State of Oregon hereby proposes to furnish all material and labor and perform all work hereinafter indicated for the above project in strict accordance with the Contract Documents for the Basic Bid as follows:

one hundred seventy four thousand Dollars (\$ 174,000 )

and the Undersigned agrees to be bound by the following documents:

- Notice of Public Improvement Contract Opportunity
  - Instructions to Bidders
  - Bid Bond
  - Public Improvement Contract Form
  - Clackamas County General Conditions
  - Prevailing Wage Rates
  - Plans, Specifications and Drawings
  - Supplemental Instructions to Bidders
  - Bid Form
  - Performance Bond and Payment Bond
  - Supplemental General Conditions
  - Payroll and Certified Statement Form
- ADDENDA numbered 0 through 0, inclusive (fill in blanks)

2. The Undersigned proposes to add to or deduct from the Base Bid indicated above the items of work relating to the following Alternate(s) as designated in the Specifications:

ALTERNATE #1: Directional Rock Bore ADD: \$ 12  
2" SDR13.5 HDPE Rock  
Adder- Per Linear Foot

ALTERNATE #2: Directional Rock Bore ADD: \$ 12  
1" SDR13.5 HDPE Adder-  
Per Linear Foot

3. The Undersigned proposes to add to or deduct from the Base Bid indicated above the items or work relating to the following Unit Price(s) as designated in the Specifications, for which any adjustments in the Contract amount will be made in accordance with Section D of the Clackamas County General Conditions:

UNIT PRICE #1: Traffic Control ADD \$ 1400

UNIT PRICE #2: ADD \$ 530  
Potholing of Existing Utilities

UNIT PRICE #3: ADD \$ 1800  
Full Panel Concrete Restoration

4. The work shall be completed within the time stipulated and specified in the contract documents.

5. Accompanying herewith is Bid Security which is equal to ten percent (10%) of the total amount of the Basic Bid, plus the total sum of all Alternatives (if any).

6. The Undersigned agrees, if awarded the Contract, to execute and deliver to Clackamas County, within twenty (20) calendar days after receiving the Contract forms, a Contract Form, and a satisfactory Performance Bond and Payment Bond each in an amount equal to one hundred percent (100%) of the Contract sum, using forms provided by the Owner. The surety requested to issue the Performance Bond and Payment Bond will be:

Market Insurance Company  
(name of surety company - not insurance agency)

The Undersigned hereby authorizes said surety company to disclose any information to the Owner concerning the Undersigned's ability to supply a Performance Bond and Payment Bond each in the amount of the Contract.

7. The Undersigned further agrees that the Bid Security accompanying the Bid is left in escrow with Clackamas County; that the amount thereof is the measure of liquidated damages which the Owner will sustain by the failure of the Undersigned to execute and deliver the above-named Contract Form, Performance Bond and Payment Bond, each as published, and that if the Undersigned defaults in either executing the Contract Form or providing the Performance Bond and Payment Bond within twenty (20) calendar days after receiving the Contract forms, then the Bid



Security shall become the property of the Owner at the Owner's option; but if the Bid is not accepted within thirty (30) calendar days of the time set for the opening of the Bids, or if the Undersigned executes and timely delivers said Contract Form, Performance Bond and Payment Bond, the Bid Security shall be returned.

8. The Undersigned certifies that: (i) This Bid has been arrived at independently and is being submitted without collusion with and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment or services described in the invitation to bid designed to limit independent bidding or competition; and (ii) the contents of the Bid have not been communicated by the Undersigned or its employees or agents to any person not an employee or agent of the Undersigned or its surety on any Bond furnished with the Bid and will not be communicated to such person prior to the official opening of the Bid.

9. The undersigned  HAS,  HAS NOT (check one) paid unemployment or income taxes in Oregon within the past 12 months and  DOES,  DOES NOT (check one) a business address in Oregon. The undersigned acknowledges that, if the selected bidder, that the undersigned will have to pay all applicable taxes and register to do business in the State of Oregon before executing the Contract Form.

10. The Undersigned agrees, if awarded a contract, to comply with the provisions of ORS 279C.800 through 279C.870 pertaining to the payment of the prevailing rates of wage.

11. Contractor's CCB registration number is 90454. As a condition to submitting a bid, a Contractor must be registered with the Oregon Construction Contractors Board in accordance with ORS 701.035 to 701.055, and disclose the registration number. Failure to register and disclose the number will make the bid unresponsive and it will be rejected, unless contrary to federal law.

12. The successful Bidder hereby certifies that all subcontractors who will perform construction work as described in ORS 701.005(2) were registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time the subcontractor(s) made a bid to work under the contract.

13. The successful Bidder hereby certifies that, in compliance with the Worker's Compensation Law of the State of Oregon, its Worker's Compensation Insurance provider is SAIF, Policy No. 793309, and that Contractor shall submit Certificates of Insurance as required.

14. Contractor's Key Individuals for this project (supply information as applicable):

Project Executive:	<u>Jesse Culp</u>	Cell Phone:	<u>503-969-9219</u>
Project Manager:	<u>Robbie Federico</u>	Cell Phone:	<u>503-302-9082</u>
Job Superintendent:	<u>Dave Elhard</u>	Cell Phone:	<u>503-969-3471</u>
Project Engineer:	<u>Adam Suminski</u>	Cell Phone:	<u>503-514-021</u>

15. The Undersigned certifies that it has not discriminated against minority, women, or emerging small businesses in obtaining any subcontracts for this project.

16. The Undersigned certifies that it has a drug testing program in accordance with ORS 279C.505.

**REMINDER:** Bidder must submit the below First-Tier Subcontractor Disclosure Form.

By signature below, Contractor agrees to be bound by this Bid.

NAME OF FIRM North Star Electrical Contractors, Inc.

ADDRESS 11055 SW Clay Street

Sherwood, OR 97140

TELEPHONE NO 503-612-0840

EMAIL jesse.culp@northstarelect.com

SIGNATURE 1) \_\_\_\_\_  
Sole Individual

or 2) \_\_\_\_\_  
Partner

or 3) Jesse Culp \_\_\_\_\_  
Authorized Officer or Employee of Corporation

\*\*\*\*\* **END OF BID** \*\*\*\*\*

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM  
PROJECT: #2021-79  
CBX Fiber WCCCA Connection

BID OPENING: October 12, 2021, 2:00 PM, Pacific Time

Failure to submit this Form by the disclosure deadline will result in a nonresponsive bid.

**INSTRUCTIONS:**

This First-Tier Subcontractor Disclosure Form ("Form") must be submitted and received at the location specified in the Notice of Public Improvement Contract Opportunity on the advertised Bid Closing, and within two working hours after the advertised Bid Closing Time.

The Form may be mailed, hand-delivered or emailed to: [Procurement@clackamas.us](mailto:Procurement@clackamas.us). It is the responsibility of Bidders to submit this Form and any additional sheets with the Project name clearly marked on the envelope or the subject line of the email.

Subcontractor lists may be submitted with the bid in the same envelope or email at the Bid Closing date and time. Subcontractor lists **MUST** be submitted within **two (2) hours** of the Bid Closing date and time.

List below the name of each subcontractor that will be furnishing labor, or labor and materials, for which disclosure is required, the category of work that the subcontractor will be performing, and the dollar value of the subcontract. Enter "**NONE**" if the value of the project bid is less than \$100,000 or there are no subcontractors that need to be disclosed. ATTACH ADDITIONAL SHEETS IF NECESSARY.

	SUBCONTRACTOR NAME	DOLLAR VALUE	CATEGORY OF WORK
1.	<u>None</u>	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____

The above listed first-tier subcontractor(s) are providing labor, or labor and material, with a Dollar Value equal to or greater than:

- a) 5% of the total Contract Price, but at least \$15,000. If the Dollar Value is less than \$15,000 do not list the subcontractor above; or
- b) \$350,000 regardless of the percentage of the total Contract Price.

Firm Name: North Star Electrical Contractors, Inc.

Bidder Signature:  Phone # 503-612-0840



**CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT SUPPLEMENTAL  
GENERAL CONDITIONS**

**PROJECT: #2021-79 CBX Fiber WCCCA Connection**

**The following modifies the October 13, 2021 Clackamas County General Conditions for Public Improvement Contracts (“County General Conditions”) for this Contract. Except as modified below, all other terms and conditions of the County General Conditions shall remain in effect.**

1. Permits

Section B.4-Permits of the County General Conditions is hereby deleted in its entirety and replaced with the following:

**B.4 PERMITS**

The City and County shall obtain and pay for all necessary project permits. Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks or otherwise. Contractor shall give all requisite notices to public authorities.

2. Good Faith Effort

As a condition of Contractor being awarded a Contract for this Project, Contractor must complete Good Faith Effort outreach and documentation as described in the Supplemental Instructions to Bidders of the Solicitation Document.

The Contractor may not change who is performing each Division of Work identified in Form 1 of the Good Faith Effort without the express written advance approval of Owner. This includes substituting identified subcontractors, self-performance of a Division of Work that was identified to be performed by a subcontractor, or the Contractor subcontracting a Division of Work that was identified to be self-performed by the Contractor.

Contractor shall be required to submit the completed Form 3 with its final pay application as a condition of final payment.



# CLACKAMAS COUNTY GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS October 13, 2021

INSTRUCTIONS: The attached **Clackamas County General Conditions for Public Improvement Contracts ("County General Conditions")** apply to all designated Public Improvement contracts. Changes to the County General Conditions (including any additions, deletions or substitutions) should only be made by attaching Public Improvement Supplemental General Conditions. The text of these County General Conditions should not otherwise be altered.

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**CLACKAMAS COUNTY GENERAL CONDITIONS  
FOR PUBLIC IMPROVEMENT CONTRACTS  
("County General Conditions")**

**SECTION A  
GENERAL PROVISIONS**

**A.1 DEFINITION OF TERMS**

In the Contract Documents the following terms shall be as defined below:

**APPLICABLE LAWS**, means all federal, state and local laws, codes, rules, regulations and ordinances, as amended applicable to the Work, to the Contract, or to the parties individually.

**APPROVED BY CONTRACTING AGENCY**, for purposes of ORS 279C.570(2), means the date a progress payment is approved by the Clackamas County Treasurer's office.

**ARCHITECT/ENGINEER**, means the Person appointed by the Owner to make drawings and specifications and, to provide contract administration of the Work contemplated by the Contract to the extent provided herein or by supplemental instruction of Owner (under which Owner may delegate responsibilities to the Architect/Engineer), in accordance with ORS Chapter 671 (Architects) or ORS Chapter 672 (Engineers) and administrative rules adopted thereunder.

**AVOIDABLE DELAYS**, mean any delays other than Unavoidable Delays, and include delays that otherwise would be considered Unavoidable Delays but that: (a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors; (b) Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of other parts of the Work nor the completion of the whole Work within the Contract Time; (c) Do not impact activities on the accepted critical path schedule; and (d) Are associated with the reasonable interference of other contractors employed by the Owner that do not necessarily prevent the completion of the whole Work within the Contract Time.

**BIDDER**, means a bidder in connection with Instructions to Bidders or a proposer in connection with a Request for Proposals, or Solicitation Document. May also be referenced as "Offeror," "Quoter" or "Proposer" based on the type of Solicitation Document.

**CHANGE ORDER**, means a written order which, when fully executed by the Parties to the Contract, constitutes a change to the Contract Documents. Change Orders shall be issued in accordance with the changes provisions in Section D and, if applicable, establish a Contract Price or Contract Time adjustment. A Change Order shall not be effective until executed by both parties.

**CLAIM**, means a demand by Contractor pursuant to Section D.3 for review of the denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, submitted in accordance with the requirements and within the time limits established for review of Claims in these County General Conditions.

**CONTRACT**, means the written agreement between the Owner and the Contractor comprised of the Contract Documents which describe the Work to be done and the obligations between the parties.

**CONTRACT DOCUMENTS**, means the Contract, County General Conditions, Supplemental General Conditions if any, Plans, Specifications, the accepted Offer, Solicitation Document and addenda thereto, Instructions to Offerors, and Supplemental Instructions to Offerors.

**CONTRACT PERIOD**, as set forth in the Contract Documents, means the total period of time beginning with the full execution of a Contract

and, if applicable, the issuance of a Notice to Proceed and concluding upon Final Completion.

**CONTRACT PRICE**, means the total price reflected in the Contract.

**CONTRACT TIME**, means any incremental period of time allowed under the Contract to complete any portion of the Work as reflected in the Project schedule.

**CONTRACTOR**, means the Person awarded the Contract for the Work contemplated.

**DAYS**, are calendar days, including weekdays, weekends and holidays, unless otherwise specified.

**DEFECTIVE WORK**, means Work that is not completed in accordance with the Specifications or the requirements of the Contract.

**DIRECT COSTS**, means, unless otherwise provided in the Contract Documents: the cost of materials, including sales tax and the cost of delivery; cost of labor which shall only include the applicable prevailing wage and fringe benefit (if applicable, and if paid to or on behalf of the employee) rate plus a maximum of a twelve percent (12%) markup on the prevailing wage (but not the fringe benefit) to cover Contractor's labor burden including but not limited to social security, Medicare, unemployment insurance, workers' compensation insurance, sick leave pay; substantiated Project cost increases for specific insurance (including, without limitation, Builder's Risk Insurance and Builder's Risk Installation Floater) or bond premiums; rental cost of equipment, and machinery required for execution of the Work; and the additional costs of field personnel directly attributable to the Work; travel expense reimbursement only if specifically authorized and only to the extent allowable under the County Contractor Travel Reimbursement Policy, hereby incorporated by reference.

**FINAL COMPLETION**, means the final completion of all requirements under the Contract, including Contract Closeout as described in Section K but excluding Warranty Work as described in Section I.2, and the final payment and release of all retainage, if any.

**FORCE MAJEURE**, means an act, event or occurrence caused by fire, riot, war, acts of God, terrorism, nature, sovereign, or public enemy, strikes, freight embargoes or any other act, event or occurrence that is beyond the control of the party to the Contract who is asserting Force Majeure.

**NOTICE TO PROCEED**, means the official written notice from the Owner stating that the Contractor is to proceed with the Work defined in the Contract Documents.

**OFFER**, means a bid in connection with Instructions to Bidders or a proposal in connection with a Request for Proposals, or Solicitation Document to do the work stated in the Solicitation Document at the price quoted. May also be referenced as "Bid," "Quote," or "Proposal" based on the type of Solicitation Document.

**OVERHEAD**, means those items which may be included in the Contractor's markup (general and administrative expense and profit) and that shall not be charged as Direct Cost of the Work, including without limitation such Overhead expenses as wages or salary of personnel above the level of foreman (i.e., superintendents and project managers), labor rates and fringe benefits above the applicable prevailing wage and fringe benefit (if applicable, and if paid to or on behalf of the employee), Contractor's labor burden for fringe benefit if paid to the employee, expenses of Contractor's offices and supplies at the Project Site (e.g. job trailer) and at Contractor's principal place of business and including expenses of personnel staffing the Project Site office and Contractor's principal place of business, and Commercial General Liability Insurance and Automobile Liability Insurance.



**OWNER**, means, Clackamas County or any component unit thereof including Clackamas County Development Agency, Clackamas County Service District No. 1, Surface Water Management Agency of Clackamas County, Tri-City Service District, Water Environment Services, North Clackamas Parks and Recreation District, Clackamas County Extension & 4-H Service District, Library Service District of Clackamas County, Enhanced Law Enforcement District, and Clackamas County Service District No. 5. Owner may elect, by written notice to Contractor, to delegate certain duties to more than one agent, including without limitation, to an Architect/Engineer. However, nothing in these County General Conditions is intended to abrogate the separate design professional responsibilities of Architects under ORS Chapter 671 or of Engineers under ORS Chapter 672.

**PERSON**, means a natural person or entity doing business as a sole proprietorship, a partnership, a joint venture, a corporation, a limited liability company or partnership, a nonprofit, a trust, or any other entity possessing the legal capacity to contract.

**PLANS**, means the drawings which show the location, type, dimensions, and details of the Work to be done under the Contract.

**PRODUCT DATA**, means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

**PROJECT**, means the total undertaking to be accomplished for Owner by architects/engineers, contractors, and other others, including planning, study, design, construction, testing, commissioning, start-up, of which the Work to be performed under the Contract Documents is a part.

**PROJECT SITE**, means the specific real property on which the Work is to be performed, including designated contiguous staging areas, that is identified in the Plans, Specifications and Drawings.

**PUNCH LIST**, means the list of Work yet to be completed or deficiencies which need to be corrected in order to achieve Final Completion of the Contract.

**RECORD DOCUMENT**, means the as-built Plans, Specifications, testing and inspection records, product data, samples, manufacturer and distributor/supplier warranties evidencing transfer of ownership to Owner, operational and maintenance manuals, shop drawings, correspondence, certificate(s) of occupancy, and other documents listed in Subsection B.9.1 of these County General Conditions, recording all Services performed.

**SAMPLES**, means physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

**SHOP DRAWINGS**, means drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor (including any subsubcontractor), manufacturer, supplier, or distributor to illustrate some portion of the Work.

**SOLICITATION DOCUMENT**, means an Invitation to Bid, Request for Proposals, Request for Quotes, or other written document issued by Owner that outlines the required Specifications necessary to submit an Offer.

**SPECIFICATION**, means any description of the physical or functional characteristics of the Work, or of the nature of a supply, service or construction item included in the Solicitation Document. Specifications may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications generally will state the results or products to be obtained and may, on occasion, describe the method and manner of doing the

Work to be performed. Specifications may be incorporated by reference and/or may be attached to the Contract.

**SUBCONTRACTOR**, means a Person having a direct contract with the Contractor, or another Subcontractor of any tier, to perform one or more items of the Work.

**SUBSTANTIAL COMPLETION**, means the date when the Owner accepts in writing the construction, alteration or repair constituting the Work or any designated portion thereof as having reached that state of completion when it may be used or occupied for its intended purpose. Substantial Completion of facilities with operating systems occurs only after thirty (30) continuous Days of successful, trouble-free operation of the operating systems as provided in Section K.3.2.

**SUBSTITUTIONS**, means items that in function, performance, reliability, quality, and general configuration are the same or better than the product(s) specified. Substitutions also means the performance of the Work by a labor force other than what is submitted in the Offer.

**SUPPLEMENTAL GENERAL CONDITIONS**, means those conditions that remove from, add to, or modify these County General Conditions. Public Improvement Supplemental General Conditions may be included in the Solicitation Document or may be a separate attachment to the Contract.

**UNAVOIDABLE DELAYS**, mean delays other than Avoidable Delays that are: (a) to the extent caused by any actions of the Owner, or any other employee or agent of the Owner, or by a separate contractor employed by the Owner; (b) to the extent caused by any Project Site conditions which differ materially from the conditions that would normally be expected to exist and inherent to the construction activities defined in the Contract Documents; or (c) to the extent caused by Force Majeure acts, or events or occurrences.

**WORK**, means the furnishing of all materials, equipment, labor, transportation, services, incidentals, those permits and regulatory approvals not provided by the owner necessary to successfully complete any individual item or the entire Contract and the carrying out of duties and obligations imposed by the Contract Documents for the Project.

## **A.2 SCOPE OF WORK**

The Work contemplated under the Contract includes all labor, materials, transportation, equipment and services for, and incidental to, the completion of all work in connection with the Project described in the Contract Documents. The Contractor shall perform all Work necessary so that the Project can be legally occupied and fully used for the intended use as set forth in the Contract Documents.

## **A.3 INTERPRETATION OF CONTRACT DOCUMENTS**

A.3.1 Unless otherwise specifically defined in the Contract Documents, words which have well-known technical meanings or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Contract Documents are intended to be complementary. Whatever is called for in one, is interpreted to be called for in all. However, in the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following descending order of precedence:

- (a) The Contract and any amendments thereto, including Change Orders, with those of later date having precedence over those of an earlier date;
- (b) The Supplemental General Conditions;
- (c) County General Conditions;
- (d) Plans and Specifications;
- (e) The Solicitation Document, and any addenda thereto.



A.3.2 In the case of an inconsistency between Plans and Specifications or within either document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner's interpretation in writing as determined in Owners sole discretion.

A.3.3 If the Contractor finds discrepancies in, or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner. Matters concerning and interpretation of requirements of the Contract Documents will be decided by the Owner in the Owner's sole discretion, who may delegate that duty in some instances to the Architect/Engineer. Responses to Contractor's requests for interpretation of Contract Documents will be made in writing by Owner (or the Architect/Engineer) within any time limits agreed upon or otherwise with reasonable promptness. Contractor shall not proceed without direction in writing from the Owner (or Architect/Engineer).

A.3.4 References to standard specifications, manuals, codes of any technical society, organization or association, to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, laws or regulations in effect in the jurisdiction where the Project Site is located on the first published date of the Solicitation Document, except as may be otherwise specifically stated.

#### **A.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND PROJECT SITE**

A.4.1 It is understood that the Contractor, before submitting an Offer, has made a careful examination of the Contract Documents; has become fully informed as to the quality and quantity of materials and the character of the Work required; and has made a careful examination of the location and conditions of the Work and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the Work. No oral agreement or conversation with any officer, agent, or personnel of the Owner, or with the Architect/Engineer either before or after the execution of the Contract, shall affect or modify any of the terms or obligations herein contained. Contractor shall at all times be responsible for all utility locates regardless of the ownership of such utility infrastructure or service.

A.4.2 Should the Plans or Specifications fail to particularly describe the materials, kind of goods, or details of construction of any aspect of the Work, Contractor shall have the duty to make inquiry of the Owner and Architect/Engineer as to what is required prior to performance of the Work. Absent Specifications to the contrary, the materials or processes that would normally be used to produce first quality finished Work shall be considered a part of the Contract requirements.

A.4.3 Any design errors or omissions noted by the Contractor shall be reported promptly to the Owner, including without limitation, any nonconformity with Applicable Laws.

A.4.4 If the Contractor believes that adjustments to cost or Contract Time are involved because of clarifications or instructions issued by the Owner (or Architect/Engineer) in response to the Contractor's notices or requests for information, the Contractor must submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt by Contractor of the clarifications or instructions issued. If the Owner denies Contractor's request for additional compensation, additional Contract Time, or other relief

that Contractor believes results from the clarifications or instructions, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If the Contractor fails to perform the obligations of Sections A.4.1 to A.4.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

A.4.5 If the Contractor believes that adjustments to cost or Contract Time are involved because of an Unavoidable Delay caused by differing Project Site conditions, the Contractor shall notify the Owner immediately of differing Project Site conditions before the area has been disturbed. The Owner will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract Documents or those which could reasonably be expected in execution of this particular Contract. If Contractor and the Owner agrees that a differing Project Site condition exists, any adjustment to compensation or Contract Time will be determined based on the process set forth in Section D.2.2 for adjustments to or deletions from Work. If the Owner disagrees that a differing Project Site condition exists and denies Contractor's request for additional compensation or Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

#### **A.5 INDEPENDENT CONTRACTOR STATUS**

The service or services to be performed under the Contract are those of an independent contractor as defined in ORS 670.600. Contractor represents and warrants that it is not an officer, employee or agent of the Owner as those terms are used in ORS 30.265.

#### **A.6 RETIREMENT SYSTEM STATUS AND TAXES**

Contractor represents and warrants that it is not a contributing member of the Public Employees' Retirement System and will be responsible for any federal or state taxes applicable to payment received under the Contract. Contractor will not be eligible for any benefits from these Contract payments of federal Social Security, employment insurance, workers' compensation or the Public Employees' Retirement System, except as a self-employed individual. Unless the Contractor is subject to backup withholding, Owner will not withhold from such payments any amount(s) to cover Contractor's federal or state tax obligations.

#### **A.7 GOVERNMENT EMPLOYMENT STATUS**

A.7.1 If this payment is to be charged against federal funds, Contractor represents and warrants that it is not currently employed by the Federal Government. This does not preclude the Contractor from holding another contract with the Federal Government.

### **SECTION B ADMINISTRATION OF THE CONTRACT**

#### **B.1 OWNER'S ADMINISTRATION OF THE CONTRACT**

B.1.1 The Owner shall administer the Contract as described in the Contract Documents throughout the term of the Contract, including the one-year period for correction of Work. The Owner will act as provided in the Contract Documents, unless modified in writing in accordance with other provisions of the Contract. In performing these tasks, the Owner may rely on the Architect/Engineer or other agents to perform some or all of these tasks.

B.1.2 The Owner may visit the Project Site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Owner will not

make exhaustive or continuous on-Project Site inspections to check the quality or quantity of the Work. Unless otherwise required in a Change Order, the Owner will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work.

B.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall communicate with each other within a reasonable time frame about matters arising out of or relating to the Contract. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

B.1.4 Based upon the Architect/Engineer's evaluations of the Contractor's Application for Payment, or unless otherwise stipulated by the Owner, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

## **B.2 CONTRACTOR'S MEANS AND METHODS; MITIGATION OF IMPACTS**

B.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the Project Site safety thereof and, except as stated below, shall be fully and solely responsible for the Project Site safety of such means, methods, techniques, sequences or procedures.

B.2.2 The Contractor is responsible to protect and maintain the Work during the course of construction and to mitigate any adverse impacts to the Project, including those caused by authorized changes, which may affect cost, schedule, or quality.

B.2.3 The Contractor is responsible for the actions of all its personnel, laborers, suppliers, agents, and Subcontractors on the Project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.

## **B.3 MATERIALS AND WORKMANSHIP**

B.3.1 The intent of the Contract Documents is to provide for the construction and completion of every detail of the Work described. All Work shall be performed in a professional manner and, unless the means or methods of performing a task are specified elsewhere in the Contract Documents, Contractor shall employ methods that are generally accepted and used by the industry, in accordance with industry standards.

B.3.2 The Contractor is responsible to perform the Work as required by the Contract Documents. Defective Work shall be corrected at the Contractor's sole expense and within a reasonable time frame.

B.3.3 Work done and materials furnished may be subject to inspection and/or observation and testing by the Owner to determine if they conform to the Contract Documents. Inspection of the Work by the Owner does not relieve the Contractor of responsibility for the Work in accordance with the Contract Documents.

B.3.4 Contractor shall furnish adequate facilities, as required, for the Owner to have safe access to the Work including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide proper facilities and access to their facilities.

B.3.5 The Contractor shall furnish Samples of materials for testing by the Owner and include the cost of the Samples in the Contract Price.

## **B.4 PERMITS**

Contractor shall obtain and pay for all necessary permits, licenses and fees, except for those specifically excluded in the Supplemental General Conditions, as required for the project. Contractor shall be responsible for all violations of the law. Contractor shall give all requisite notices to public authorities.

## **B.5 COMPLIANCE WITH GOVERNMENT REGULATIONS**

B.5.1 Contractor shall comply with Applicable Laws, as amended pertaining to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following, as applicable and as may be amended from time to time: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended; (vi) all regulations and administrative rules established pursuant to any applicable laws; and (vii) all other applicable requirements of federal, state, county or other local government entity statutes, rules and regulations.

B.5.2 Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations, and

(a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as that term is defined in ORS 408.225, in the awarding of subcontracts.

(b) Contractor shall maintain, in current and valid form, all licenses and certificates required by Applicable Laws or the Contract when performing the Work.

B.5.3 Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.021 at the time they submit their bids to the Contractor.

B.5.4 Contractor shall certify that each landscape contracting business, as defined in ORS 671.520(2), performing Work under the Contract holds a valid landscape construction professional license issued pursuant to ORS 671.560.

B.5.5 The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (877) 668-4001.

B.5.6 Failure to comply with any or all of the requirements of B.5.1 through B.5.5 shall be a material breach of Contract and constitute

grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

B.5.7 The Contractor shall include in each subcontract those provisions required under ORS 279C.580.

B.5.8 Contractor shall comply with ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default.

## **B.6 SUPERINTENDENCE**

Contractor shall keep on the Project Site, during the progress of the Work, a competent superintendent and any necessary assistants who shall be satisfactory to the Owner and who shall represent the Contractor on the Project Site. Directions given to the superintendent by the Owner shall be confirmed in writing to the Contractor.

## **B.7 INSPECTION**

B.7.1 Owner shall have access to the Work at all times.

B.7.2 Inspection of the Work will be made by the Owner at its discretion. The Owner will have authority to reject Work that does not conform to the Contract Documents in the Owner's sole discretion. Any Work found to be not in conformance with the Contract Documents, in the discretion of the Owner, shall be removed and replaced at the Contractor's expense.

B.7.3 Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Work required by the Contract Documents or by Applicable Laws or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner.

B.7.4 As required by the Contract Documents, Work done or material used without required inspection or testing and/or without providing timely notice to the Owner may be ordered removed at the Contractor's expense.

B.7.5 If directed to do so by Owner or other permitting authority any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore such portions of Work to the standard required by the Contract. If the Work uncovered is unacceptable or was done without required testing or inspection or sufficient notice to the Owner, the uncovering and restoration shall be done at the Contractor's expense. If the Work uncovered is acceptable and was done with sufficient notice to the Owner, the uncovering and restoration will be paid for pursuant to a Change Order.

B.7.6 If any testing or inspection reveals failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Owner's and Architect/Engineer's services and expenses, shall be at the Contractor's expense.

B.7.7 In Owner's sole discretion, it may authorize other interested parties to inspect the Work affecting their interests or property. Their right to inspect shall not make them a party to the Contract and shall not interfere with the rights of the parties of the Contract. Instructions or orders of such parties shall be transmitted to the Contractor, through the Owner.

## **B.8 SUBCONTRACTS AND ASSIGNMENT**

B.8.1 Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound by the terms and conditions of these General Conditions and Supplemental General Conditions, and to assume toward the Contractor all of the obligations and responsibilities which the Contractor assumes toward the Owner thereunder, unless (1) the same are clearly inapplicable to the subcontract at issue because of legal requirements or industry practices, or (2) specific exceptions are requested by Contractor and approved in writing by Owner. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with sub-subcontractors at any level.

B.8.2 At Owner's request, Contractor shall submit to Owner prior to their execution either Contractor's form of subcontract, or the subcontract to be executed with any particular Subcontractor. If Owner disapproves such form, Contractor shall not execute the form until the matters disapproved are resolved to Owner's satisfaction. Owner's review, comment upon or approval of any such form shall not relieve Contractor of its obligations under this Agreement or be deemed a waiver of such obligations of Contractor.

B.8.3 Contractor shall not assign, sell, or transfer its rights, or delegate its responsibilities under the Contract, in whole or in part, without the prior written approval of the Owner. No such written approval shall relieve Contractor of any obligations of the Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

## **B.9 OWNER'S RIGHT TO DO WORK**

Owner reserves the right to perform other or additional work at or near the Project Site with other agents than those of the Contractor. If such work takes place within or next to the Project Site, Contractor shall coordinate work with the other contractors or agents, cooperate with all other contractors or forces, carry out the Work in a way that will minimize interference and delay for all agents involved, place and dispose of materials being used so as not to interfere with the operations of another, and join the Work with the work of the others in an acceptable manner and perform it in proper sequence to that of the others. The Owner will resolve any disagreements that may arise between or among Contractor and the other contractors over the method or order of doing all work (including the Work). In case of unavoidable interference, the Owner will establish work priority (including the Work) in the Owner's sole discretion.

## **B.10 OTHER CONTRACTS**

In all cases and at any time, the Owner has the right to execute other contracts related to or unrelated to the Work of the Contract. The Contractor of the Contract shall fully cooperate with any and all other contractors without additional cost to the Owner in the manner described in Section B.13.

## **B.11 ALLOWANCES**

B.11.1 The Contractor shall include in the Contract Price all allowances stated in the Contract Documents. Items covered by allowances

shall be supplied for such amounts and by such persons or entities as the Owner may direct.

- B.11.2 Unless otherwise provided in the Contract Documents:
- (a) when finally reconciled, allowances shall cover the cost of the Contractor's materials and equipment delivered at the Project Site and all required taxes, less applicable trade discounts;
  - (b) Contractor's costs for unloading and handling at the Project Site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Price but not in the allowances;
  - (c) whenever costs are more than or less than allowances, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (i) the difference between actual costs and the allowances under Section B.17.2(a) and (ii) changes in Contractor's costs under Section B.17.2(b);
  - (d) Unless Owner requests otherwise, Contractor shall provide to Owner a proposed fixed price for any allowance work prior to its performance.

#### **B.12 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

- B.12.1 The Contractor shall prepare and keep current, for the Architect's/Engineer's approval (or for the approval of Owner if approval authority has not been delegated to the Architect/Engineer), a schedule and list of submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals. Owner reserves the right to finally approve the schedule and list of submittals. Submittals include, without limitation, Shop Drawings, Product Data, and Samples.
- B.12.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by the Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.
- B.12.3 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents

and approved by the Contractor may be returned by the Architect/Engineer without action.

- B.12.4 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- B.12.5 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect/Engineer.
- B.12.6 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect/Engineer's review or approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and (i) the Architect/Engineer has given written approval to the specific deviation as a minor change in the Work, or (ii) a Change Order has been executed by Owner authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect/Engineer's review or approval thereof.
- B.12.7 In the event that Owner elects not to have the obligations and duties described under this Section B.18 performed by the Architect/Engineer, or in the event no Architect/Engineer is employed by Owner on the Project, all obligations and duties assigned to the Architect/Engineer hereunder shall be performed by the Owner.

#### **B.13 SUBSTITUTIONS**

The Contractor may make Substitutions only with the written consent of the Owner, after evaluation by the Owner and only in accordance with a Change Order. Substitutions shall be subject to the requirements of the Solicitation Document. By making requests for Substitutions, the Contractor represents that the Contractor has personally investigated the proposed substitute product; represents that the Contractor will provide the same warranty for the Substitution that the Contractor would for the product originally specified unless approved otherwise; certifies that the cost data presented is complete and includes all related costs under the Contract including redesign costs, and waives all claims for additional costs related to the Substitution which subsequently become apparent; and will coordinate the installation of the accepted Substitution, making such changes as may be required for the Work to be completed in all respects.

#### **B.14 USE OF PLANS AND SPECIFICATIONS**

Plans, Specifications and related Contract Documents furnished to Contractor by Owner or Owner's Architect/Engineer shall be used solely for the performance of the Work under the Contract. Contractor and its Subcontractors and suppliers are authorized to use and reproduce applicable portions of such documents appropriate to the execution of the Work, but shall not claim any ownership or other interest in them beyond the scope of the Contract, and no such interest shall attach. Unless otherwise indicated, all common law, statutory and other reserved rights, in addition to copyrights, are retained by Owner.

**SECTION C**  
**WAGES AND LABOR**

**C.1 PREVAILING WAGE RATES ON PUBLIC WORKS**

Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Pursuant to ORS 279C.830(1)(d), Contractor shall pay workers at not less than the specified minimum hourly rate of wage, and shall include that requirement in all subcontracts. If the Work is subject to both the state prevailing wage rate law and the federal Davis-Bacon Act, Contractor shall pay the higher of the applicable state or federal prevailing rate of wage. Contractor shall provide written notice to all workers of the number of hours per day and days per week such workers may be required to work.

**C.2 PAYROLL CERTIFICATION AND FEE REQUIREMENTS**

- C.2.1 In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Owner on the form prescribed by the Commissioner of the Bureau of Labor and Industries ("BOLI"), certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the Project and further certifying that no worker employed on the Project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor that the Contractor or Subcontractor has read the certified statement, that the Contractor or Subcontractor knows the contents of the certified statement, and, that to the Contractor's or Subcontractor's best knowledge and belief, the certified statement is true. The certified statements shall set out accurately and completely the payroll records for the prior week, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a worker on the Project shall be submitted once a month, by the fifth (5<sup>th</sup>) business day of the following month. The Contractor and Subcontractors shall preserve the certified statements for a period of ten (10) years from the date of completion of the Contract.
- C.2.2 Pursuant to ORS 279C.845(7), the Owner shall retain 25 percent of any amount earned by the Contractor on the Project until the Contractor has filed the certified statements required by section C.2.1. The Owner shall pay to the Contractor the amount retained under this subsection within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements.
- C.2.3 Pursuant to ORS 279C.845(8), the Contractor shall retain 25 percent of any amount earned by a first-tier Subcontractor on this Project until the first-tier Subcontractor has filed with the Owner the certified statements required by C.2.1. Before paying any amount retained under this subsection, the Contractor shall verify that the first-tier Subcontractor has filed the certified statement. Within 14 days after the first-tier Subcontractor files the required certified statement the Contractor shall pay the first-tier Subcontractor any amount retained under this subsection.
- C.2.4 In accordance with statutory requirements and administrative rules promulgated by the Commissioner of the Bureau of Labor and Industries, the fee required by ORS 279C.825(1) will be paid by Owner to the Commissioner.

**C.3 PROMPT PAYMENT AND CONTRACT CONDITIONS**

- C.3.1 As a condition to Owner's performance hereunder, the Contractor shall:
- C.3.1.1 Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in the Contract.
- C.3.1.2 Pay all contributions or amounts due the State Industrial Accident Fund or successor program from such Contractor or Subcontractor incurred in the performance of the Contract.
- C.3.1.3 Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Owner, or assign any sums due by Owner, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Owner.
- C.3.1.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- C.3.2 If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor of a Subcontractor by any person in connection with the Project as such claim becomes due, the proper officer(s) representing the Owner may pay the claim and charge the amount of the payment against funds due or to become due Contractor under the Contract. Payment of claims in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.
- C.3.3 Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier subcontractor, including a material supplier, for the purpose of performing a construction contract, a payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten (10) Days out of such amounts as are paid to the Contractor by the Owner under such contract.
- C.3.4 If the Contractor or a first-tier subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the Contract within 30 days after receiving payment from the contracting agency or a contractor, the Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.
- C.3.5 If the Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
- C.3.6 All employers, including Contractor, that employ subject workers who work under the Contract 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. Contractor shall ensure that each of its Subcontractors complies with these requirements.
- C.3.7 In accordance with ORS 279C.570, for all subcontracts that exceed \$500,000 that the Contractor withholds retainage, the Contractor shall place amounts deducted as retainage into an interest-bearing escrow account. Interest on the retainage amount accrues from the

date the payment request is approved until the date the retainage is paid to the Subcontractor to which it is due.

**C.4 PAYMENT FOR MEDICAL CARE**

As a condition to Owner's performance hereunder, Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums of which the Contractor agrees to pay for the services and all moneys and sums that the Contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.

**C.5 HOURS OF LABOR**

As a condition to Owner's performance hereunder, no person shall be employed to perform Work under the Contract for more than ten (10) hours in any one day or forty (40) hours in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:

- (a) For all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work week is five consecutive Days, Monday through Friday; or
- (b) For all overtime in excess of ten (10) hours a day or forty (40) hours in any one week when the work week is four consecutive Days, Monday through Friday; and
- (c) For all Work performed on Saturday and on any legal holiday specified in ORS 279C.540.

This Section C.5 will not apply to Contractor's Work under the Contract to the extent Contractor is currently a party to a collective bargaining agreement with any labor organization.

This Section C.5 shall not excuse Contractor from completion of the Work within the time required under the Contract.

**SECTION D  
CHANGES IN THE WORK**

**D.1 CHANGES IN WORK**

D.1.1 The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written agreement and then only after any necessary approvals have been obtained. A Change Order is required to modify the Contract, which shall not be effective until its execution by the parties to the Contract and all approvals required by public contracting laws have been obtained.

D.1.2 It is mutually agreed that changes in Plans, quantities, or details of construction may be necessary or desirable during the course of construction. Within the general scope of the Contract, the Owner may at any time, without notice to the sureties and without impairing the Contract, require changes it deems necessary or desirable within the scope of this Project and consistent with this Section D.1. All changes to the Work shall be documented and Change Orders shall be executed under the conditions of the Contract Documents. Such changes may include, but are not limited to:

- (a) Modification of specifications and design.
- (b) Increases or decreases in quantities.
- (c) Increases or decreases to the amount of Work.
- (d) Addition or elimination of any Work item.
- (e) Change in the duration of the Project.

- (f) Acceleration or delay in performance of Work.
- (g) Deductive changes.

Deductive changes are those that reduce the scope of the Work, and shall be made by mutual agreement whenever feasible. In cases of suspension or partial termination under Section J, Owner reserves the right to unilaterally impose a deductive change and to self-perform such Work, for which the provisions of Section B.13 (Owner's Right to Do Work) shall then apply. Adjustments in compensation shall be made under Section D.1.3, in which costs for deductive changes shall be based upon a Direct Costs adjustment together with the related percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Owner.

D.1.3 The Owner and Contractor agree that adjustments to or deletions from the Work shall be administered and compensated according to the following:

- (a) Unit Pricing: Unit pricing may be utilized at the Owner's option when unit prices or solicitation alternates were provided that established the cost for adjustments to Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the adjustment to Work.
- (b) Fixed Fee: If the Owner elects not to utilize unit pricing, or in the event that unit pricing is not available or appropriate, fixed pricing may be used for adjustments to or deletions from the Work. In fixed pricing, the basis of payments or total price shall be agreed upon in writing between the parties to the Contract, and shall be established before the Work is done whenever feasible. Notwithstanding the foregoing, the mark-ups set forth in Section D.1.3(c) shall be utilized in establishing fixed pricing, and such mark-ups shall not be exceeded. Cost and price data relating to adjustments to or deletions from the Work shall be supplied by Contractor to Owner upon request, but Owner shall be under no obligation to make such requests.

(c) Time and Material: In the event that unit pricing and fixed pricing are not utilized, then adjustments to or deletions from the Work shall be performed on a cost reimbursement basis for Direct Costs. Such Work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material furnished on the Work performed. The Contractor or Subcontractor who performs the Work shall be allowed to add up to ten percent (10%) markup to the Direct Costs as full compensation for profit, Overhead and other indirect costs for Work performed with the Contractor's or Subcontractor's own agents

Each ascending tier Subcontractor or the Contractor that did not perform the Work, will be allowed to add up to five percent (5%) supplemental markup on the Direct Costs of the Work (but not the above allowable markups) covered by a Change Order. No additional markup shall be permitted for any third tier or greater descending Subcontractor.

Example: \$20,000 of Direct Costs Work performed by a 2<sup>nd</sup> Tier Subcontractor

	Markup	Allowed Total Fee Plus Markup
General Contractor	5%	\$1,000.00
1 <sup>st</sup> Tier Sub Contractor	5%	\$1,000.00
2 <sup>nd</sup> Tier Sub Contractor	10%	\$22,000.00

(d) Payments made to the Contractor shall be complete compensation for Overhead, profit, and all costs that were incurred by the Contractor or by other agents furnished by the Contractor, including Subcontractors, for adjustments to or deletions from the Work pursuant to a Change Order. Owner may establish a maximum cost for additional Work under this Section D.1.3, which shall not be exceeded for reimbursement without additional written

authorization from Owner in the form of a Change Order. Contractor shall not be required to complete such additional Work without additional authorization.

- D.1.4 Any necessary adjustment of Contract Time that may be required as a result of adjustments to or deletions from the Work must be agreed upon by the parties before the start of the revised Work unless Owner authorizes Contractor to start the revised Work before agreement on Contract Time adjustment.

Contractor shall submit any request for additional compensation (and additional Contract Time if Contractor was authorized to start Work before an adjustment of Contract Time was approved) as soon as possible but no later than thirty (30) Days after receipt of Owner's request for additional Work. If Contractor's request for additional compensation or adjustment of Contract Time is not made within the thirty (30) Day time limit, Contractor's requests pertaining to that additional Work shall be barred. The thirty (30) Day time limit for making requests shall not be extended for any reason, including without limitation Contractor's claimed inability to determine the amount of additional compensation or adjustment of Contract Time, unless an extension is granted in writing by Owner. If the Owner denies Contractor's request for additional compensation or adjustment of Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process. No other reimbursement, compensation, or payment will be made, except as provided in Section D.1.5 for impact claims.

- D.1.5 If any adjustment to Work under Section D.1.3 causes an increase or decrease in the Contractor's cost of, or the Contract Time required for the performance of any other part of the Work under the Contract, Contractor shall submit a written request to the Owner, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt of Owner's request for adjustments to or deletions from the Work by Contractor.

The thirty (30) Day time limit applies to claims of Subcontractors, suppliers, or manufacturers who may be affected by Owner's request for adjustments to or deletions from the Work and who request additional compensation or an extension of Contract Time to perform; Contractor has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the thirty (30) Day time limit, and including their requests with Contractor's requests. If the request involves Work to be completed by Subcontractors, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Contractor in writing with full analysis and justification for the adjustments to compensation and Contract Time requested. The Contractor shall analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to Contractor prior to including those requests and Contractor's analysis and evaluation of those requests with Contractor's requests for adjustments to compensation or Contract Time that Contractor submits to the Owner. Failure of Subcontractors, suppliers, manufacturers or others to submit their requests to Contractor for inclusion with Contractor's requests submitted to Owner within the time period and by the means described in this section shall constitute a waiver of these Subcontractor claims. The Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to the Contract. The consideration of such requests and claims under this section does not give any Person, not a party to the Contract the right to bring a claim against Owner, whether in this claims process, in litigation, or in any dispute resolution process.

If the Owner denies the Contractor's request for adjustment to compensation or Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

- D.1.6 No request or Claim by the Contractor for additional costs or an adjustment of Contract Time shall be allowed if made after receipt of final payment application under the Contract. Final payment application must be made by Contractor within the time required under Section E.6.4.

- D.1.7 It is understood that changes in the Work are inherent in construction of this type. The number of changes, the scope of those changes, and the effect they have on the progress of the original Work cannot be defined at this time. The Contractor agrees that it will work in good faith with Owner to undertake changes, when agreed upon by execution of a Change Order. Each change will be evaluated for extension of Contract Time and increase or decrease in compensation based on its own merit.

## **D.2 DELAYS**

- D.2.1 Contractor shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays.
- D.2.2 In the event of Unavoidable Delays, Contractor may be entitled to the following:
- (a) Contractor may be entitled to additional compensation or additional Contract Time, or both, for Unavoidable Delays described in Section D.2.1.2 (a) and (b).
  - (b) Contractor may be entitled to additional Contract Time for Unavoidable Delays described in Section D.2.1.2(c) and (d).

In the event of any requests for additional compensation or additional Contract Time, or both, as applicable, arising under this Section D.2.2 for Unavoidable Delays, other than requests for differing Project Site conditions for which a review process is established under Section A.4.5, Contractor shall submit a written notification of the delay to the Owner within two (2) Days of the occurrence of the cause of the delay. This written notification shall state the cause of the potential delay, the Project components impacted by the delay, and the anticipated additional Contract Time extension or the additional compensation, or both, as applicable, resulting from the delay. Within seven (7) Days after the cause of the delay has been mitigated, or in no case more than thirty (30) Days after the initial written notification, the Contractor shall submit to the Owner, a complete and detailed request for additional compensation or additional Contract Time, or both, as applicable, resulting from the delay. If the Owner denies Contractor's request for additional compensation or adjustment of Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

If Contractor does not timely submit the notices required under this Section D.2, Contractor's Claim shall be barred.

## **D.3 CLAIMS REVIEW PROCESS**

- D.3.1 All Contractor Claims shall be referred to the Owner for review. Contractor's Claims, including Claims for adjustments to compensation or Contract Time, shall be submitted in writing by Contractor to the Owner within five (5) Days after a denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in these County General Conditions. Within thirty (30) Days after the initial Claim, Owner shall receive from Contractor a complete and detailed description of the Claim (the "Detailed Notice") that includes all information required by Section D.3.2. Unless the Claim is made in accordance with these time requirements, it shall be barred.



D.3.2 The Detailed Notice of the Claim shall be submitted in writing by Contractor and shall include all information, records and documentation necessary for the Owner to properly and completely evaluate the claim, including, but not limited to a detailed, factual statement of the basis of the Claim, pertinent dates, Contract provisions which support or allow the Claim, reference to or copies of any documents which support the Claim, the dollar value of the Claim, and the Contract Time adjustment requested for the Claim. If the Claim involves Work to be completed by Subcontractors, the Contractor will analyze and evaluate the merits of the Subcontractor claim prior to forwarding it and that analysis and evaluation to the Owner. The Owner will not consider direct claims from Subcontractors, suppliers, manufacturers, or others not a party to the Contract. Contractor agrees that it will make no agreement, covenant, or assignment, nor will it commit any other act that will permit or assist any Subcontractor, supplier, manufacturer, or other to directly or indirectly make a claim against Owner.

D.3.3 The Owner, through the Architect/Engineer (or other employee or agent assigned by the Owner) will review all Claims and take one or more of the following preliminary actions within ten (10) Days of receipt of the Detailed Notice of a Claim: (1) request additional supporting information from the Contractor; (2) inform the Contractor and Owner in writing of the time required for adequate review and response; (3) reject the Claim in whole or in part and identify the reasons for rejection; (4) recommend approval of all or part of the Claim; (5) arrange a meeting with the Contractor for formal review of the Claim; or (6) propose an alternate resolution.

D.3.4 Once the Engineer or Project Manager determines the Owner is in receipt of a properly submitted claim, the Engineer or Project Manager may arrange a meeting, as agreed by the parties, with the Contractor in order to present the claim for formal review and discussion. A person authorized by the Contractor to execute Change Orders on behalf of the Contractor must be present and attend all claim meetings.

D.3.5 The Owner's decision, through the Architect/Engineer (or other employee or agent assigned by the Owner), shall be final and binding on the Contractor unless appealed by written notice to the Owner within fifteen (15) Days of receipt of the decision. The Contractor must present written documentation supporting the Claim within fifteen (15) Days of the notice of appeal. After receiving the appeal documentation, the Owner, through the appropriate department director, shall review the materials and render a decision within thirty (30) Days after receiving the appeal documents.

D.3.6 If, at any step in the claim decision or review process, the Contractor fails to promptly submit requested information or documentation that the Owner deems necessary to analyze the claim, the Contractor is deemed to have waived its right to further review, and the Claim will not be considered properly filed and preserved.

D.3.7 Both parties agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) Days of the issuance of the appeal in Section D. 3.4 above. If the parties are unable to resolve their issues through mediation or otherwise, either party may seek redress through all available remedies in equity or in law.

D.3.8 Unless otherwise directed by Owner, Contractor shall proceed with the Work while any Claim, or mediation or litigation arising from a Claim, is pending. Regardless of the review period or the final decision of the Owner, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease or delay Work, in whole or in part, without a written stop work order from the Owner.

## **SECTION E PAYMENTS**

### **E.1 SCHEDULE OF VALUES**

The Contractor shall submit, by or before the pre-construction conference (as described in Section H.1.3), a schedule of values ("Schedule of Values") for the Contract Work. This schedule shall provide a breakdown of values for the Contract Work and will be the basis for progress payments. The breakdown shall demonstrate reasonable, identifiable, and measurable components of the Work. Unless objected to by the Owner, this schedule shall be used as the basis for reviewing Contractor's applications for payment. If objected to by Owner, Contractor shall revise the schedule of values and resubmit the same for approval of Owner.

### **E.2 APPLICATIONS FOR PAYMENT**

E.2.1 Owner shall make progress payments on the Contract monthly as Work progresses, in accordance with the requirements of this Section E.2 and ORS 279C.570. Applications for payment shall be based upon estimates of Work completed and the Schedule of Values. As a condition precedent to Owner's obligation to pay, all applications for payment shall be approved by the Owner. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein. Owner shall pay to Contractor interest in accordance with ORS 279C.570 for overdue invoices, not including retainage, due the Contractor. Overdue invoices will be those that have not been paid within the earlier of:

- (a) Thirty (30) days after receipt of the invoice; or
- (b) Fifteen (15) days after the payment is approved by the County.

Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Owner shall so notify the Contractor within fifteen (15) Days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within seven (7) Days of being notified by the Owner, shall not cause a payment to be made later than specified in this section unless interest is also paid. Payment of interest will be postponed when payment on the principal is delayed because of disagreement between the Owner and the Contractor.

Owner reserves the right, instead of requiring the Contractor to correct or resubmit a defective or improper application for payment, to reject the defective or improper portion of the application for payment and pay the remainder of the application for such amounts which are correct and proper.

Owner, upon written notice to the Contractor, may elect to make payments to the Contractor only by means of Electronic Funds Transfers ("EFT") through Automated Clearing House ("ACH") payments. If Owner makes this election, the Contractor shall arrange for receipt of the EFT/ACH payments.

E.2.2 Contractor shall submit to the Owner an application for each payment and, if required, receipts or other vouchers showing payments for materials and labor including payments to Subcontractors. Contractor shall include in its application for payment a schedule of the percentages of the various parts of the Work completed, based on the Schedule of Values which shall aggregate to the payment application total, and shall include, on the face of each copy thereof, a certificate in substantially the following form:

"I, the undersigned, hereby certify that the above bill is true and correct, and the payment therefore, has not been received.

Signed: \_\_\_\_\_  
 Dated: \_\_\_\_\_"

E.2.3 Generally, applications for payment will be accepted only for materials that have been installed. Under special conditions, applications for payment for stored materials will be accepted at Owner's sole discretion. Such a payment, if made, will be subject to the following conditions:

- (a) The request for stored material shall be submitted at least thirty (30) Days in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.
- (b) The Contractor shall submit applications for payment showing the quantity and cost of the material stored.
- (c) The material shall be stored in a bonded warehouse and Owner shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.
- (d) The Contractor shall name the Owner as co-insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Owner.
- (e) Payments shall be made for materials and equipment only. The submitted amount in the application for payment shall be reduced by the cost of transportation from the storage site to the Project Site and for the cost of an inspector to verify delivery and condition of the goods at the storage site. The cost of storage and inspection shall be borne solely by the Contractor.
- (f) Within sixty (60) Days of the application for payment, the Contractor shall submit evidence of payment covering the material and/or equipment stored and of payment for the storage site.
- (g) Payment for stored materials and/or equipment shall in no way indicate acceptance of the materials and/or equipment or waive any rights under the Contract for the rejection of the Work or materials and/or equipment not in conformance with the Contract Documents.
- (h) All required documentation shall be submitted with the respective application for payment.

E.2.4 The Owner reserves the right to withhold all or part of a payment, or may nullify in whole or part any payment previously made, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss because of:

- (a) Work that is defective and not remedied, or that has been demonstrated or identified as failing to conform with Applicable Laws or the Contract Documents;
- (b) third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Owner is provided by the Contractor;
- (c) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Owner may issue checks made payable jointly to Contractor and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level under Section C.3.2);

- (d) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
- (e) damage to the Work, Owner or Owner's agent;
- (f) reasonable evidence that the Work will not be completed within the Contract Time required by the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- (g) failure to carry out the Work in accordance with the Contract Documents; or
- (h) assessment of liquidated damages, when withholding is made for offset purposes.

E.2.5 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- (a) Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Price allocated to that portion of the Work in the Schedule of Values, less retainage as provided in Section E.5. Pending final determination of cost to the Owner of changes in the Work, no amounts for changes in the Work can be included in applications for payment until the Contract Price has been adjusted by a Change Order;
- (b) Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the Project Site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner pursuant to Section E.2.3, suitably stored off the Project Site at a location agreed upon in writing), less retainage as provided in Section E.5;
- (c) Subtract the aggregate of previous payments made by the Owner; and
- (d) Subtract any amounts for which the Owner has withheld or nullified payment as provided in the Contract Documents.

E.2.6 Contractor's applications for payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier.

E.2.7 The Contractor warrants to Owner that title to all Work covered by an application for payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment all Work for which payments are received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided financing, labor, materials and equipment relating to the Work.

E.2.8 If Contractor disputes any determination by Owner with regard to any application for payment, Contractor nevertheless shall continue to expeditiously perform the Work. No payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or shall relieve Contractor of any of its obligations hereunder.

**E.3 PAYROLL CERTIFICATION REQUIREMENT**

Owner's receipt of payroll certification pursuant to Section C.2 of the Contract shall be a condition precedent to Owner's obligation to pay any progress payments or final payment otherwise due.

**E.4 DUAL PAYMENT SOURCES**

Contractor shall not be compensated for Work performed under the Contract from any state agency other than the agency that is a party to the Contract.

**E.5 RETAINAGE**

E.5.1 Retainage shall be withheld and released in accordance with the requirements set forth in Local Contract Review Board Rules or the applicable County standard.

E.5.1.1 Owner may reserve as retainage from any progress payment an amount not to exceed five percent of the payment. As Work progresses, Owner may reduce the amount of retainage on or may eliminate retainage on any remaining monthly Contract payments after fifty (50) percent of the Work under the Contract is completed if, in the Owner's discretion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Work is ninety-seven and a half percent (97.5%) completed in Owner's estimation, the Owner may, at its discretion and without application by the Contractor, reduce the retained amount to hundred (100) percent of the value of the Work remaining to be done. Upon receipt of written application by the Contractor, Owner shall respond in writing within a reasonable time.

E.5.1.2 If retainage is withheld, unless the Contractor requests and the Owner accepts a form of retainage described in options (a) or (b) below, the Owner (except as otherwise provided below for a contract of \$500,000 or less), will deposit the retainage in an interest-bearing escrow account as required by ORS 279C.570(2). The Contractor shall execute such documentation and instructions respecting the interest-bearing escrow account as the Owner may require to protect its interests, including but not limited to a provision that no funds may be paid from the account to anyone without the Owner's advance written authorization. For a Contract over \$500,000, if the Contractor requests that the Owner deposit the retainage in an interest-bearing account under ORS 279C.560(5), the Owner will use an interest-bearing escrow account as stated above. For a Contract of \$500,000 or less, if the Contractor requests that the Owner deposit the retainage in an interest-bearing account under ORS 279C.560(5), the Owner will use an interest-bearing account (in a bank, savings bank, trust company or savings association) as provided under ORS 279C.450(5).

In accordance with the provisions of ORS 279C.560, Local Contract Review Board Rules, or the applicable County standard, unless the Owner finds in writing that accepting bonds, securities or other instruments described in option (a) below or a security bond described in option (b) below poses an extraordinary risk that is not typically associated with the bond, security or instrument, the Owner will approve the Contractor's written request:

- a. to be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds, securities or other instruments of equal value with Owner or in a custodial account or other mutually-agreed account satisfactory to Owner, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Owner. Interest or earnings on the bonds, securities or other instruments shall accrue to the Contractor. The Contractor shall execute and provide such documentation and instructions respecting the bonds, securities and other instruments as the Owner may require to protect its interests. To be permissible, the bonds, securities and other instruments must be of a character approved by Owner; or

- b. that the Contractor be allowed, with the approval of the Owner, Owner allow Contractor to deposit a surety bond for the benefit of Owner, in a form acceptable to Owner, in lieu of all or a portion of funds retained, or to be retained. Such bond and any proceeds therefrom shall be made subject to all claims and liens in the manner and priority as set forth for retainage under ORS 279C.550 to ORS 279C.625.

When the Owner has accepted the Contractor's election of option (a) or (b), Owner may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Owner has agreed to Contractor's request for option (b), Contractor shall accept like bonds from Subcontractors and suppliers on the Project from which Contractor has required retainages.

E. 5.1.3 The retainage held by Owner shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The Owner shall pay to Contractor interest at the rate of two thirds of one percent per month on the final payment due Contractor, interest to commence forty-five (45) Days after the date which Owner receives Contractor's final approved application for payment and Work under the Contract has been completed and accepted and to run until the date when final payment is tendered to Contractor. The Contractor shall notify Owner in writing when the Contractor considers the Work complete and deliver to Owner its final application for payment and Owner shall, within fifteen (15) Days after receiving the written notice and the application for payment, either accept the Work or notify the Contractor of Work yet to be performed on the Contract. If Owner does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run forty-five (45) Days after the end of the fifteen (15) Day period.

E.5.1.4 Owner will reduce the amount of the retainage if the Contractor notifies the Owner that the Contractor has deposited in an escrow account with a bank or trust company, in a manner authorized by the Owner, bonds and securities of equal value of a kind approved by the Owner and such bonds and securities have in fact been deposited.

E.5.1.5 Contractor agrees that if Contractor elects to reserve a retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent of the payment, and such retainage withheld from Subcontractors and suppliers shall be subject to the same terms and conditions stated in Subsection E.5 as apply to Owner's retainage from any progress payment due to Contractor.

E.5.1.6 The Contractor shall comply with all applicable legal requirements for withholding and releasing retainage and for prompt payments, including but not limited to those in ORS Chapters 279C and 701, and 49 CFR 26.29.

**E.6 FINAL PAYMENT**

E.6.1 Upon completion of all the Work under the Contract, the Contractor shall notify the Owner, in writing, that Contractor has completed Contractor's obligations under the Contract and shall prepare its application requesting final payment. The amount of final payment will be the difference between the total amount due the Contractor pursuant to the Contract Documents and the sum of all payments previously made. Upon receipt of such notice and application for payment, the Owner will inspect the Work, and, if acceptable, submit to Contractor a recommendation as to acceptance of the completed Work and the final estimate of the amount due the Contractor. If the Work is not acceptable, Owner will notify Contractor within fifteen (15) Days of Contractor's request for final payment. Upon approval of this final application for payment by the Owner and compliance by the Contractor with

provisions in Section K, and Contractor's satisfaction of other provisions of the Contract Documents as may be applicable, the Owner shall pay to the Contractor all monies due under the provisions of these Contract Documents.

- E.6.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner (1) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) Days' prior written notice has been given to the Owner, (2) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (3) consent of surety, if any, to final payment and (4), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien.
- E.6.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.
- E.6.4 Contractor agrees to submit its final payment application within ninety (90) Days after Substantial Completion, unless written extension is granted by Owner. Contractor shall not delay final payment application for any reason, including without limitation nonpayment of Subcontractors, suppliers, manufacturers or others not a party to the Contract, or lack of resolution of a dispute with Owner or any other person of matters arising out of or relating to the Contract. If Contractor fails to submit its final payment application within ninety (90) Days after Substantial Completion, and Contractor has not obtained written extension by Owner, all requests or Claims for additional costs or an extension of Contract Time shall be barred.

## **SECTION F PROJECT SITE CONDITIONS**

### **F.1 USE OF PREMISES**

Contractor shall confine equipment, storage of materials and operation of Work to the limits indicated by Contract Documents, Applicable Laws, permits or directions of the Owner. Contractor shall follow the Owner's instructions regarding use of premises, if any.

### **F.2 PROTECTION OF WORKERS, PROPERTY AND THE PUBLIC**

- F.2.1 Contractor shall maintain continuous and adequate protection of all of the Work from damage and shall protect the Owner, workers and property from injury or loss arising in connection with the Contract. Contractor shall remedy acceptably to the Owner any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by authorized representatives or personnel of the Owner. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.
- F.2.2 Contractor shall take all necessary precautions for the safety of all personnel on the Project Site or otherwise engaged in the undertaking of the Work and shall comply with the Contract Documents, best practices and all applicable provisions of federal, state and municipal safety laws and building codes to prevent

accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for protection of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Project Site, whose duty shall be the prevention of accidents. The name and position of the person designated shall be reported to the Owner. The Owner has no responsibility for Project Site safety. Project Site safety shall be the responsibility of the Contractor.

- F.2.3 Contractor shall not enter upon private property without first obtaining permission from the property owner or its duly authorized representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Work contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and make, or arrange to make, full restitution. Contractor shall, immediately and in writing, report to the Owner, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.
- F.2.4 Contractor shall be responsible for protection of adjacent work areas including impacts brought about by activities, equipment, labor, utilities, vehicles and materials on the Project Site.
- F.2.5 Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials shall be conducted so no release will occur that may pollute or become hazardous.
- F.2.6 In an emergency affecting the safety of life or limb or of the Work or of adjoining property, the Contractor, without special instruction or authorization from the Owner, shall act reasonably to prevent threatened loss or injury, and shall so act, without appeal, if instructed by the Owner. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with section D.
- F.2.7 Contractor shall comply with all Owner safety rules and regulations, if applicable. Prior to commencement of any Work, Contractor and Subcontractors shall be required to complete an Owner Contractor Safety Orientation and submit all Owner required safety plans.
- F.2.8 Contractor shall demonstrate that an employee drug testing program is in place.

### **F.3 CUTTING AND PATCHING**

- F.3.1 If applicable, Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.
- F.3.2 If applicable, Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

### **F.4 CLEANING UP**

From time to time as may be prudent or ordered by the Owner and, in any event, immediately after completion of the Work, the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. If Contractor fails to do so within twenty-four (24) hours after notification by the Owner the work may be

done by others and the cost charged to the Contractor and deducted from payment due the Contractor.

## **F.5 ENVIRONMENTAL CONTAMINATION**

F.5.1. Contractor shall be held responsible for and shall indemnify, defend (with counsel of Owner's choice), and hold harmless Owner from and against any costs, expenses, damages, claims, and causes of action, or any of them, resulting from all spills, releases, discharges, leaks and disposal of environmental pollution, including storage, transportation, and handling during the performance of the Work or Contractor's obligations under the Contract which occur as a result of, or are contributed by, the negligence or actions of Contractor or its personnel, agents, or Subcontractors or any failure to perform in accordance with the Contract Documents (except to the extent otherwise void under ORS 30.140). Nothing in this section F.5.1 shall limit Contractor's responsibility for obtaining insurance coverages required under Section G.3 of the Contract, and Contractor shall take no action that would void or impair such coverages.

F.5.1.1 Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of Owner and regulatory agencies having jurisdiction in a manner that complies with Applicable Laws. Cleanup shall be at no cost to the Owner and shall be performed by properly qualified and, if applicable, licensed personnel.

F.5.1.2 Unless otherwise approved in the Solicitation Document, Contractor shall obtain the Owner's written consent prior to bringing onto the Project Site any (i) environmental pollutants or (ii) hazardous substances or materials, as the same or reasonably similar terms are used in any Applicable Laws. In any event, Contractor shall provide prior written notice to Owner when hazardous materials are brought on to the Project Site. The Contractor, at all times, shall:

- (a) properly handle, use and dispose of all environmental pollutants and hazardous substances or materials on the Project Site, in accordance with all Applicable Laws;
- (b) be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Project Site; and
- (c) promptly clean up and remediate, without cost to the Owner, such spills, releases, discharges, or leaks to the Owner's satisfaction and in compliance with all Applicable Laws.

F.5.2 Contractor shall report all reportable quantity releases, as such releases are defined in Applicable Laws. Upon discovery, regardless of quantity, Contractor must verbally report all releases to the Owner in a prompt manner. A written follow-up report shall be submitted to Owner within 48 hours of the telephonic report. Such written report shall contain, as a minimum:

- (a) Description of items released (identity, quantity, manifest numbers, and any and all other documentation required by law).
- (b) Whether amount of items released is EPA/DEQ reportable, and, if so, when reported.
- (c) Exact time and location of release, including a description of the area involved.
- (d) Containment procedures initiated.

(e) Summary of communications about the release between Contractor and State, local or federal officials other than Owner. Any communication to the press will be done by Owner and Contractor will defer to Owner.

(f) Description of cleanup procedures employed or to be employed at the Project Site, including disposal location of spill residue.

(g) Personal injuries, if any, resulting from, or aggravated by, the release.

## **F.6 ENVIRONMENTAL CLEAN-UP**

F.6.1 Unless disposition of environmental pollution is specifically a part of the Contract, or was caused by the Contractor (reference F.5 Environmental Contamination), Contractor shall immediately notify Owner of any hazardous substance(s) which Contractor discovers or encounters during performance of the Work required by the Contract. "Hazardous substance(s)" means any hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance, including without limitation asbestos, polychlorinated biphenyl ("PCB"), or petroleum, and any substances, materials or wastes regulated by 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying Owner of any hazardous substance(s) discovered or encountered, Contractor shall immediately cease working in any particular area of the Project where a hazardous substance(s) has been discovered or encountered if continued work in such area would present a risk or danger to the health or wellbeing of Contractor's or any Subcontractor's work force, property or the environment.

F.6.2 Upon being notified by Contractor of the presence of hazardous substance(s) on the Project Site, not brought on to the Project Site by Contractor, Owner shall arrange for the proper disposition of such hazardous substance(s).

## **F.7 DEMOLITION**

F.7.1 For demolition tasks, if any, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective.

## **SECTION G INDEMNITY, BONDING, AND INSURANCE**

### **G.1 RESPONSIBILITY FOR DAMAGES / INDEMNITY**

G.1.1 Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Work to be done under the Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, employees, guests, visitors, invitees and agents.

G.1.2 To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by Owner) and hold harmless the Owner and its elected officials, officers, directors, agents, and employees (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses, demands and actions of any nature whatsoever which arise out of, result from or are related to: (a) any damage, injury, loss, expense, inconvenience or delay described in this Section G.1; (b) any accident or occurrence which happens or is alleged to have happened in or about the Project Site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects; (c) any failure of the Contractor to

observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract; (d) the negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140); and (e) any lien filed upon the Project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section G.1.2.

G.1.3 In claims against any person or entity indemnified under Section G.1.2 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section G.1.2 shall not be limited on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

## **G.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND**

G.2.1 When the Contract Price is \$50,000 or more, the Contractor shall furnish and maintain in effect at all times during the Contract Period a performance bond in a sum equal to the Contract Price and a separate payment bond also in a sum equal to the Contract Price. Contractor shall furnish such bonds even if the Contract Price is less than the above thresholds if otherwise required by the Contract Documents.

G.2.2 Bond forms furnished by the Owner and notarized by Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.

G.2.3 Before execution of the Contract, the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Revised Statutes, Chapter 279C.830 and 279C.836, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting any Subcontractor to start Work.

## **G.3 INSURANCE**

G.3.1 Primary Coverage: Insurance carried by Contractor under the Contract shall be the primary coverage. The coverages indicated are minimums unless otherwise specified in the Contract Documents.

G.3.2 Workers' Compensation: All employers, including Contractor, that employ subject workers who work under the Contract 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. This shall include Employer's Liability Insurance with coverage limits of not less than the minimum amount required by statute for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its Subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation coverage by receiving and keeping on file a certificate of insurance from each

Subcontractor or anyone else directly employed by either the Contractor or its Subcontractors.

G.3.3 Builder's Risk Insurance:

G.3.3.1 Builder's Risk: During the term of the Contract, for new construction the Contractor shall obtain and keep in effect Builder's Risk insurance on an all risk forms, including earthquake and flood, for an amount equal to the full amount of the Contract, plus any changes in values due to modifications, Change Orders and loss of materials added. Such Builder's Risk shall include, in addition to earthquake and flood, theft, vandalism, mischief, collapse, transit, debris removal, and architect's fees "soft costs" associated with delay of Project due to insured peril. Any deductible shall not exceed \$50,000 for each loss, except the earthquake and flood deductible which shall not exceed 2 percent of each loss or \$50,000, whichever is greater. The deductible shall be paid by Contractor. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear.

G.3.3.2 Builder's Risk Installation Floater: For Work other than new construction, Contractor shall obtain and keep in effect during the term of the Contract, a Builder's Risk Installation Floater for coverage of the Contractor's labor, materials and equipment to be used for completion of the Work performed under the Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contract. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear. Owner may waive this requirement at its sole and absolute discretion.

G.3.3.3 Such insurance shall be maintained until Owner has occupied the facility.

G.3.3.4 A loss insured under the Builder's Risk insurance shall be adjusted by the Owner and made payable to the Owner as loss payee. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner. The Owner shall have power to adjust and settle a loss with insurers.

G.3.4 General Liability Insurance:

G.3.4.1 Commercial General Liability: Upon execution of a Contract, Contractor shall obtain, and keep in effect at Contractor's expense for the term of the Contract, Commercial General Liability Insurance ("CGL") covering bodily injury and property damage in the amount of not less than \$1,000,000 per claim and \$2,000,000 per occurrence in a form satisfactory to Owner. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnities provided under the Contract (to the extent contractual liability coverage for the indemnity is available in the marketplace), and shall be issued on an occurrence basis written on ISO Form GC 00 01 (12 04 or later) or an equivalent form approved in advance by Owner. The CGL shall provide separation of insured language. The policy or policies obtained by Contractor for purposes of fulfilling the requirements of this section shall be primary insurance with respect to the Owner. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

G.3.4.2 Automobile Liability: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the Contract, Automobile Liability Insurance covering owned, and/or hired vehicles, as applicable. The coverage may be written in combination with the Commercial General Liability Insurance. Contractor shall provide proof of insurance of not less than \$1,000,000 per claim and \$2,000,000 per occurrence. Contractor

and its Subcontractors shall be responsible for ensuring that all non-owned vehicles maintain adequate Automobile Liability insurance while on Project Site.

- G.3.4.3 Owner may adjust the insurance amounts required in Section G.3.4.1 and G.3.4.2 based upon institution specific risk assessments through the issuance of Supplemental General Conditions and a Contract.
- G.3.4.4 To the extent that the Contract Documents require the Contractor to provide professional design services, design-build, or certifications related to systems, materials, or equipment, the Contractor shall (1) purchase and maintain professional liability/errors-and-omissions insurance with limits of not less than \$1,000,000 for each claim and \$2,000,000 general annual aggregate and (2) cause those Subcontractors (of any tier) who are providing professional design services including any design-build services to procure and maintain professional liability/errors-and-omissions insurance with limits of not less than \$1,000,000 for each claim and \$2,000,000 general annual aggregate. This policy shall be for the protection of the Owner, its elected officials, officers, agents and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to the Contract. The Owner, at its option, may require a complete copy of the above policy.
- G.3.4.5 "Tail" Coverage: If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 36 months or the maximum time period available in the marketplace if less than 36 months. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 36 months following Final Completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the Contract. Owner's receipt of the policy endorsement evidencing such coverage shall be a condition precedent to Owner's obligation to make final payment and to Owner's final acceptance of Work or services and related warranty (if any).
- G.3.4.6 Umbrella Liability (if required by Owner through issuance of Supplemental General Conditions): Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the Contract, Umbrella liability Insurance over and above the general liability, automobile liability and workers' compensation coverage if required by Owner in specified limits at time of requirement.
- G.3.4.7 Pollution Liability may be required by Owner through issuance of Supplemental General Conditions.
- G.3.5 Additional Insured: The general liability insurance coverage, automobile liability, umbrella, and pollution liability if required, shall include the Owner as additional insureds but only with respect to the Contractor's activities to be performed under the Contract. The additional-insured endorsement for CGL insurance must be written on ISO Form CG 20 10 (10 01) and CG 20 37 (10 01), or their equivalent, but shall not use either of the following forms: CG 20 10 (10 93) or CG 20 10 (03 94). Proof of insurance must include a copy of the endorsement showing "Clackamas County, its elected officials, agents, officers, and employees" as scheduled insureds.

If Contractor cannot obtain an insurer to name the Owner as additional insureds, Contractor shall obtain at Contractor's expense, and keep in effect during the term of the Contract, Owners and Contractors Protective Liability Insurance, naming the Owner as additional insureds with not less than a \$2,000,000

limit per occurrence. This policy must be kept in effect for 36 months following Final Completion. As evidence of coverage, Contractor shall furnish the actual policy to Owner prior to execution of the Contract.

- G.3.6 Notice of Cancellation or Change: If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify Owner by fax within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. When notified by Owner, the Contractor agrees to stop Work pursuant to the Contract at Contractor's expense, unless all required insurance remain in effect. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverages provided to the Owner and its institutions, divisions, officers, and employees.
- Owner shall have the right, but not the obligation, of prohibiting Contractor from entering the Project Site until a new certificate(s) of insurance is provided to Owner evidencing the replacement coverage. The Contractor agrees that Owner reserves the right to withhold payment to Contractor until evidence of reinstated or replacement coverage is provided to Owner.
- G.3.7 Certificate(s) of Insurance/Insurance Carrier Qualification: As evidence of the insurance coverage required by the Contract, the Contractor shall furnish certificate(s) of insurance to the Owner prior to execution of the Contract. The certificate(s) will specify all of the parties who are additional insureds or loss payees for the Contract. A renewal certificate shall be sent to Owner at least 10 days prior to coverage expiration. Insurance coverage required under the Contract shall be obtained from insurance companies or entities acceptable to the Owner and that are eligible to provide such insurance under Oregon law. Eligible insurers include admitted insurers that have been issued a certificate of authority from the Oregon Department of Consumer and Business Services authorizing them to conduct an insurance business and issue policies of insurance in the state of Oregon, and certain non-admitted surplus lines insurers that satisfy the requirements of applicable Oregon law and which are subject to approval by the Owner. The Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder. Any deductible, self-insured retention and/or self-insurance in excess of \$50,000 shall be subject to approval by the Owner in writing and shall be a condition precedent to the effectiveness of any Contract.

## **SECTION H SCHEDULE OF WORK**

### **H.1 CONTRACT PERIOD**

- H.1.1 Time is of the essence. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements herein.
- H.1.2 Notice to Proceed. Unless otherwise directed in the Contract Documents, Contractor shall commence Work on the Project Site within fifteen (15) Days of the Notice to Proceed. Notwithstanding the Notice to Proceed, Contractor shall not be authorized to proceed with the Work until all initial Contract requirements, including the Contract, performance bond and payment bond, and certificates of insurance, have been fully executed and submitted in a form acceptable to Owner.
- H.1.3 Unless otherwise not required in the Construction Documents, Contractor shall participate in a pre-construction conference with the Owner's representative and designated design team. The



purpose of this pre-construction conference is to review the Contractor's proposed Schedule of Values and to review any other Project logistics to be coordinated between the parties.

H.1.4 Unless specifically extended by a Change Order, all Work shall be complete by the date contained in the Contract Documents. The Owner shall have the right to accelerate the completion date of the Work, which may require the use of overtime. Such accelerated Work schedule shall be an acceleration in performance of Work under Section D.1.2(f) and shall be subject to the provisions of Section D.1.

H.1.5 The Owner shall not waive any rights under the Contract by permitting the Contractor to continue or complete in whole or in part the Work after the date described in Section H.1.2 above.

## **H.2 SCHEDULE**

H.2.1 Contractor shall provide, by or before the pre-construction conference, the initial as-planned schedule for review and acceptance by the Owner. The submitted schedule must illustrate Work by Project components, labor trades, and long lead items broken down by building and/or floor where applicable. If Owner shall so elect, Contractor shall provide the schedule in CPM format showing the graphical network of planned activities, including i) a reasonably detailed list of all activities required to complete the Work; ii) the time and duration that each activity will take to completion; and iii) the dependencies between the activities. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. The schedule shall include the following: Notice to Proceed or the date the Work commences, if no Notice to Proceed is issued by Owner, Substantial Completion, and Final Completion. Schedules shall be updated monthly, unless otherwise required by the Contract Documents, and submitted with the monthly application for payment. Acceptance of the Schedule by the Owner does not constitute agreement by the Owner as to the Contractor's sequencing, means, methods, or durations. Any positive difference between the Contractor's scheduled completion and the Contract completion date is float owned by the Owner. Owner reserves the right to negotiate the float if it is deemed to be in Owner's best interest to do so. In no case shall the Contractor make a claim for delays if the Work is completed within the Contract Time but after Contractor's scheduled completion.

H.2.2 All Work shall be completed during normal weekdays (Monday through Friday) between the hours of 7:00 a.m. and 5:00 p.m. unless otherwise specified in the Contract Documents. Unless otherwise specified in the Contract Documents, no Work shall be performed during the following holidays:

- New Year's Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Christmas Day
- President's Day

When a holiday falls on a Sunday, the following Monday shall be recognized as a legal holiday. When a holiday falls on Saturday, the preceding Friday shall be recognized as a legal holiday.

## **H.3 PARTIAL OCCUPANCY OR USE**

The Owner may occupy or use any completed or partially completed portion of the Work at any stage, provided such occupancy or use is consented to by public authorities having

jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have reasonably accepted in writing the responsibilities assigned to each of them. Approval by the Contractor to partial occupancy or use shall not be unreasonably withheld. Immediately prior to such partial occupancy or use, the Owner and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. Partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## **SECTION I CORRECTION OF WORK**

### **I.1 CORRECTION OF WORK BEFORE FINAL PAYMENT**

The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects, and that the Work will conform to the requirements of the Contract Documents. Work failing to conform to these requirements shall be deemed defective. Contractor shall promptly remove from the premises and replace all defective materials and equipment as determined by the Owner, whether incorporated in the Work or not. Removal and replacement shall be without loss or expense to the Owner, and Contractor shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement. Contractor shall be allowed a period of no longer than thirty (30) Days after Substantial Completion for completion of defective (Punch List) work. At the end of the thirty-day period, or earlier if requested by the Contractor, Owner shall arrange for inspection of the Work by the Architect/Engineer. Should the work not be complete, and all corrections made, the costs for all subsequent reinspections shall be borne by the Contractor. If Contractor fails to complete the Punch List work within the thirty (30) Day period, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand without affecting Contractor's obligations.

### **I.2 WARRANTY WORK**

I.2.1 Neither the final certificate of payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for Defective Work and, unless a longer period is specified, Contractor shall correct all defects that appear in the Work within a period of one year from the date of issuance of the written notice of Substantial Completion by the Owner except for latent defects which will be remedied by the Contractor at any time they become apparent. The Owner shall give Contractor notice of defects with reasonable promptness. Contractor shall perform such warranty work within a reasonable time after Owner's demand and at Contractor's sole expense. If Contractor fails to complete the warranty work within such period as Owner determines reasonable, or at any time in the event of warranty work consisting of emergency repairs, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand, without affecting Contractor's obligations. The Contractor shall perform the warranty Work by correcting defects within twenty-four (24) hours of notification by Owner, unless otherwise specified in the Contract Documents. Should the Contractor fail to respond within the specified response time, the Owner may, at its option, complete the necessary repairs using another contractor or its agents. If Owner completes the repairs using Owner's agent, Contractor shall pay Owner at the rate of one and one-half (1½) times the standard hourly rate of Owner's agent, plus related overhead and any direct non-salary costs. If Owner completes the repairs using another contractor, Contractor shall pay Owner the amount of Owner's direct costs billed by the other contractor for the work, plus the direct salary costs and related overhead and direct non-salary expenses of Owner's agents who

are required to monitor that contractor's work. Work performed by Owner using Owner's own agents or those of another contractor shall not affect the Contractor's contractual duties under these provisions, including warranty provisions.

- I.2.2 Nothing in this Section I.2 provision shall negate guarantees or warranties for periods longer than one year including without limitation, such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.
- I.2.3 In addition to Contractor's warranty, manufacturer's warranties shall pass to the Owner and shall not take effect until such portion of the Work covered by the applicable warranty has been accepted in writing by the Owner.
- I.2.4 The one-year period for correction of Work shall be extended with respect to portions of Work performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work, and shall be extended by corrective Work performed by the Contractor pursuant to this Section, as to the Work corrected. The Contractor shall remove from the Project Site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- I.2.5 Nothing contained in this Section I.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the period for correction of Work as described in this Section I.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.
- I.2.6 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate and equitable as determined by Owner. Such adjustment shall be effected whether or not final payment has been made.

## **SECTION J**

### ***SUSPENSION AND/OR TERMINATION OF THE WORK***

#### **J.1 OWNER'S RIGHT TO SUSPEND THE WORK**

- J.1.1 The Owner has the authority to suspend portions or all of the Work due to the following causes:
- (a) Failure of the Contractor to correct unsafe conditions;
  - (b) Failure of the Contractor to carry out any provision of the Contract;
  - (c) Failure of the Contractor to carry out orders;
  - (d) Conditions, in the opinion of the Owner, which are unsuitable for performing the Work;
  - (e) Time required to investigate differing Project Site conditions; or
  - (f) Any reason considered to be in the public interest.
- J.1.2 The Owner shall notify Contractor and the Contractor's Surety in writing of the effective date and time of the suspension, and Owner shall notify Contractor and Contractor's surety in writing to resume Work.

#### **J.2 CONTRACTOR'S RESPONSIBILITIES**

- J.2.1 During the period of the suspension, Contractor is responsible to continue maintenance at the Project just as if the Work were in progress. This includes, but is not limited to, protection of completed Work, maintenance of access, protection of stored materials, temporary facilities, and clean-up.
- J.2.2 When the Work is recommenced after the suspension, the Contractor shall replace or renew any Work damaged during the suspension, remove any materials or facilities used as part of temporary maintenance, and complete the Work in every respect as though its prosecution had been continuous and without suspension.

#### **J.3 COMPENSATION FOR SUSPENSION**

Depending on the reason for suspension of the Work, the Contractor or the Owner may be due compensation by the other party. If the suspension was required due to acts or omissions of Contractor, the Owner may assess the Contractor actual costs of the suspension in terms of administration, remedial work by the Owner's agents or another contractor to correct the problem associated with the suspension, rent of temporary facilities, and other actual costs related to the suspension, and any liquidated damages arising from the delay. If the suspension was caused by acts or omissions of the Owner, the Contractor may be due compensation which shall be defined using Section D, Changes in Work. If the suspension was required through no fault of the Contractor or the Owner, neither party shall owe the other for the impact.

#### **J.4 OWNER'S RIGHT TO TERMINATE CONTRACT**

- J.4.1 The Owner may, without prejudice to any other right or remedy, and after giving Contractor seven (7) Days' written notice and an opportunity to cure, terminate the Contract in whole or in part under the following conditions:
- (a) If Contractor should, voluntarily or involuntarily, seek protection under the United States Bankruptcy Code and Contractor as debtor-in-possession or the Trustee for the estate fails to assume the Contract within a reasonable time;
  - (b) If Contractor should make a general assignment for the benefit of Contractor's creditors;
  - (c) If a receiver should be appointed on account of Contractor's insolvency;
  - (d) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;
  - (e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner;
  - (f) If Contractor is otherwise in breach of any part of the Contract; or
  - (g) If Contractor is in violation of Applicable Laws, either in the conduct of its business or in its performance of the Work.

- J.4.2 At any time that any of the above occurs, Owner may exercise all rights and remedies available to Owner at law or in equity, and, in addition, Owner may take possession of the premises and of all materials and appliances and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive further payment until the Work is completed. If

the Owner's cost of finishing the Work exceeds the unpaid balance of the Contract Price, Contractor shall pay the difference to the Owner.

#### **J.5 TERMINATION FOR CONVENIENCE, NON-APPROPRIATION OF FUNDS, OR FORCE MAJEURE**

- J.5.1 Owner may terminate the Contract in whole or in part whenever Owner determines: (a) that termination of the Contract is in the best interest of Owner or the public; (b) that the Owner failed to receive funding, appropriations, allocations or other expenditure authority as contemplated by Owner's budget and Owner determines, in its sole determination, and its assessment and ranking of the policy objectives explicit or implicit in Owner's budget, Owner may determine it is necessary to and may terminate the Contract.; or (c) in the event of Force Majeure.
- J.5.2 The Owner shall provide the Contractor with seven (7) Days prior written notice of a termination for Owner's or for public convenience. After such notice, the Contractor shall provide the Owner with immediate and peaceful possession of the premises and materials located on and off the premises for which the Contractor received progress payment under Section E. Compensation for Work terminated by the Owner under this provision will be according to Section E. In no circumstance shall Contractor be entitled to lost profits for Work not performed due to termination. If the Contract is terminated for public convenience, neither the Contractor nor its Surety shall be relieved of liability for damages or losses suffered by the Owner as a result of defective, unacceptable or unauthorized Work completed or performed.

#### **J.6 ACTION UPON TERMINATION**

- J.6.1 Upon receiving a notice of termination, and except as directed otherwise by the Owner, Contractor shall immediately cease placing further subcontracts or orders for materials, services, or facilities. In addition, Contractor shall terminate all subcontracts or orders to the extent they relate to the Work terminated and, with the prior written approval of the Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts and orders.
- J.6.2 As directed by the Owner, Contractor shall, upon termination, transfer title and deliver to the Owner all Record Documents, information, and other property that, if the Contract had been completed, would have been required to be furnished to the Owner.
- J.6.3 Upon Owner's notice of termination pursuant to either Section J.4 or J.5, if Owner shall so elect, Contractor shall assign to the Owner such subcontracts and orders as Owner shall specify. In the event Owner elects to take assignment of any such subcontract or order, Contractor shall take such action and shall execute such documents as Owner shall reasonably require for the effectiveness of such assignment and Contractor shall ensure that no contractual arrangement between it and its subcontractors or suppliers of any tier or sub-tier shall prevent such assignment.

### **SECTION K CONTRACT CLOSE OUT**

#### **K.1 RECORD DOCUMENTS**

As a condition of final payment (refer also to section E.6), Contractor shall comply with the following: Contractor shall provide Record Documents for the entire Project to Owner. Record Documents shall depict the Project as constructed and shall reflect each and every change, modification, and deletion made during the construction. Record Documents are part of the Work and shall be provided prior to the Owner's issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed.

#### **K.2 OPERATION AND MAINTENANCE MANUALS**

As part of the Work, Contractor shall submit two completed operation and maintenance manuals ("O & M Manuals") for review by the Owner prior to submission of any pay request for more than 75% of the Work. Owner's receipt of the O & M Manuals shall be a condition precedent to any payment thereafter due. The O & M Manuals shall contain a complete set of all submittals, all product data as required by the specifications, training information, telephone list and contact information for all consultants, manufacturers, installer and suppliers, manufacturer's printed data, record and shop drawings, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Owner shall review and return one O & M Manual for any modifications or adjustments required. Prior to submission of its final pay request, Contractor shall deliver two (2) complete and approved sets of O & M Manuals in paper form and one (1) complete and approved set in electronic form to the Owner and Owner's receipt of the O & M Manuals shall be a condition precedent to Owner's obligation to make final payment.

#### **K.3 COMPLETION NOTICES**

- K.3.1 Contractor shall provide Owner written notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and the time within which the Contractor shall finish all items on the Punch List accompanying the Certificate. Both completion notices must be signed and notarized by the Contractor and signed by the Architect/Engineer (if applicable) and Owner to be valid. The Owner shall provide the final signature on the notices. The notices shall take effect on the date they are signed by the Owner.
- K.3.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, HVAC) shall be that degree of completion that has provided a minimum of thirty (30) continuous Days of successful, trouble-free operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Owner. All equipment contained in the Work, plus all other components necessary to enable the Owner to operate the facility in the manner that was intended, shall be complete on the Substantial Completion date. The Contractor may request that a Punch List be prepared by the Owner with submission of the request for the Substantial Completion notice.

#### **K.4 TRAINING**

As part of the Work, and prior to submission of the final application for payment, the Contractor shall schedule with the Owner training sessions for all equipment and systems as required by the Contract Documents. Contractor shall schedule training sessions at least two weeks in advance of the date of training to allow Owner to provide its personnel with adequate notice. If assignments arise because of termination under Section J.4, then such assignments shall not relieve Contractor of liability hereunder. The O & M Manual shall be used as a basis for training. In addition to any off-Project Site training required by the Contract Documents, training shall include a formal session conducted at the Project Site after the equipment and/or system is completely installed and operational in its normal operating environment.

#### **K.5 EXTRA MATERIALS**

As part of the Work, Contractor shall provide spare parts, extra maintenance materials, and other materials or products in the quantities specified in the Contract Documents prior to final payment. Delivery point for extra materials shall be designated by the Owner.

#### **K.6 ENVIRONMENTAL CLEAN-UP**

As part of the Final Completion notice, or as a separate written notice submitted with or before the notice of Final Completion, the Contractor shall notify the Owner that all environmental and pollution clean-up, remediation and closure have been completed in accordance with all Applicable Laws and pursuant to the authority of all agencies having jurisdiction, and Contractor shall provide Owner with any and all documentation related to the same, including but not limited to directives, orders, letters, certificates and permits related to or arising from such environmental pollution. The notice shall reaffirm the indemnification given under Section F.5.1 above. Contractor's completion of its obligations under this Section K.6 and Owner's receipt of documents evidencing such completion shall be a condition precedent to Owner's obligation to make final payment.

**K.7 CERTIFICATE OF OCCUPANCY**

Owner's receipt of an unconditioned certificate of occupancy from the appropriate state and/or local building officials shall be a condition precedent to Owner's obligation to make final payment, except to the extent failure to obtain an unconditional certificate of occupancy is due to the fault or neglect of Owner.

**K.8 OTHER CONTRACTOR RESPONSIBILITIES**

The Contractor shall be responsible for returning to the Owner all property of Owner issued to Contractor during construction such as keys, security passes, Project Site admittance badges, and all other pertinent items. Upon notice from Owner, Contractor shall be responsible for notifying the appropriate utility companies to transfer utility charges from the Contractor to the Owner. The utility transfer date shall not be before Substantial Completion and may not be until Final Completion, if the Owner does not take beneficial use of the facility and the Contractor's agents continue with the Work.

The Owner's property is drug free and weapons free areas and the use of tobacco products is only allowed in designated areas. Contractor shall be required to ensure that its employees, Subcontractors and agents shall comply with these requirements.

**SECTION L  
GENERAL PROVISIONS**

**L.1 NO THIRD PARTY BENEFICIARIES**

Owner and Contractor are the only parties to the Contract and are the only parties entitled to enforce its terms. Nothing in the 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 the Contract.

**L.2 SEVERABILITY**

If any provision of the Contract is declared by a court to be unenforceable, 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 provision held to be invalid.

**L.3 ACCESS TO RECORDS**

L.3.1 Contractor shall keep, at all times on the Project Site, one record copy of the complete Contract Documents, including the Plans, Specifications, addenda, and Change Orders (if any) in good order and marked currently to record field changes and selections made during construction, and one record copy of Shop Drawings, Product Data, Samples and similar submittals, and shall at all times give the Owner access thereto.

L.3.2 Contractor shall retain and the Owner and its duly authorized representatives shall have access, for a period not less than ten (10)

years, to all Record Documents, financial and accounting records, and other books, documents, papers and records of Contractor which are pertinent to the Contract, including records pertaining to Overhead and indirect costs, for the purpose of making audit, examination, excerpts and transcripts. If for any reason, any part of the Work or the Contract shall be subject to litigation, Contractor shall retain all such records until all litigation is resolved and Contractor shall continue to provide Owner and/or its agents with full access to such records until such time as all litigation is complete and all periods for appeal have expired and full and final satisfaction of any judgment, order or decree is recorded and Owner receives a record copy of documentation from Contractor.

**L.4 WAIVER**

Failure of the Owner to enforce any provision of the Contract shall not constitute a waiver or relinquishment by the Owner of the right to such performance in the future nor of the right to enforce any other provision of the Contract.

**L.5 SUCCESSORS IN INTEREST**

The provisions of the Contract shall be binding upon and shall accrue to the benefit of the parties to the Contract and their respective permitted successors and assigns.

**L.6 GOVERNING LAW**

The Contract shall be governed by and construed in accordance with the laws of the State of Oregon without giving effect to the conflict of law provisions thereof.

**L.7 APPLICABLE LAW**

Contractor hereto agrees to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

**L.8 NON-EXCLUSIVE RIGHTS AND REMEDIES**

Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of the Contract shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

**L.9 INTERPRETATION**

The titles of the sections of the Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

**L.10 DEBT LIMITATION**

The 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.

**L.11 LITIGATION**

Any Claim between Owner and Contractor that arises from or relates to the Contract and that is not resolved through the Claims Review Process in Section D.3 shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas 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 County of any form of defense or

immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THE CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION.

**L. 12 SURVIVAL**

All warranty, indemnification, and record retention provisions of the Contract, and all of Contractor's other obligations under the Contract that are not fully performed by the time of Final Completion or termination, and all other rights and obligations which by their context are intended to survive, shall survive Final Completion or any termination of the Contract.

**L.13 ACCESS TO RECORDS**

L.13.1. Contractor shall keep, at all times on the Work site, one record copy of the complete Contract Documents, including the Plans, Specifications, Construction Change Directives and addenda, in good order and marked currently to record field changes and selections made during construction, and one copy of Shop Drawings, Project Data, Samples and similar submittals, and shall at all times give the Owner access thereto.

L.13.2 Contractor shall retain and the Owner and its duly authorized representatives shall have access, for a period not less than ten (10) years, to all Record Documents, financial and accounting records, and other books, documents, papers and records of Contractor which are pertinent to the Contract, including records pertaining to Overhead and indirect costs, for the purpose of making audit, examination, excerpts and transcripts. If for any reason, any part of the Work or this Contract shall be subject to litigation, Contractor shall retain all such records until all litigation is resolved and Contractor shall continue to provide Owner and/or its agents with full access to such records until such time as all litigation is complete and all periods for appeal have expired and full and final satisfaction of any judgment, order or decree is recorded and Owner receives a record copy of documentation from Contractor.

**L.14 WAIVER**

Failure of the Owner to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Owner of the right to such performance in the future nor of the right to enforce any other provision of this Contract.

**L. 15 NO ATTORNEY FEES.**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.



CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT

PERFORMANCE BOND

Bond No.: 4446826  
Solicitation: #2021-79  
Project Name: CBX Fiber WCCCA Connection

MARKEL INSURANCE COMPANY (Surety #1)	Bond Amount No. 1:	\$ <u>179,000.00</u>
_____ (Surety #2) *	Bond Amount No. 2: *	\$ _____
* If using multiple sureties	Total Penal Sum of Bond:	\$ <u>179,000.00</u>

We, NORTHSTAR ELECTRICAL CONTRACTORS, INC. as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto Clackamas County and the City of Hillsboro, the sum of (Total Penal Sum of Bond) ONE HUNDRED SEVENTY NINE THOUSAND NO/100\*\*(\$179,000.00) (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety); and

WHEREAS, the Principal has entered into a contract with Clackamas County and the City of Hillsboro, along with the plans, specifications, terms and conditions of which are contained in the above-referenced Solicitation; and

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which increase the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance, notice of any such modifications hereby being waived by the Surety;

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall defend, indemnify, and save harmless Clackamas County, the City or Hillsboro, and its elected officials, officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in

connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all respects perform said contract according to law, then this obligation is to be void; otherwise, it shall remain in full force and effect for so long as any term of the Contract remains in effect.

Nonpayment of the bond premium will not invalidate this bond nor shall Clackamas County and the City of Hillsboro, be obligated for the payment of any premiums.

This bond is given and received under authority of Oregon Revised Statutes Chapter 279C and the Clackamas County Local Contractor Review Board Rules, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES.

Dated this 30th day of October, 2021.

**PRINCIPAL:** NORTHSTAR ELECTRICAL CONTRACTORS, INC.

By: [Signature]  
Signature

President  
Official Capacity

Attest: [Signature]  
Corporation Secretary

**SURETY:** MARKEL INSURANCE COMPANY  
*[Add signatures for each if using multiple bonds]*

BY ATTORNEY-IN-FACT:  
*[Power-of-Attorney must accompany each bond]*

ROBIN BAIRD  
Name

[Signature]  
Signature

2103 CITY WEST BLVD STE 1300  
Address

HOUSTON TX 77042  
City State Zip

541-741-0550      541-741-1674  
Phone Fax



CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT

PAYMENT BOND

Bond No.: 4446826  
 Solicitation: #2021-79  
 Project Name: CBX Fiber WCCCA Connection

<u>MARKEL INSURANCE COMPANY</u> (Surety #1)	Bond Amount No. 1:	\$ <u>179,000.00</u>
_____ (Surety #2)*	Bond Amount No. 2:*	\$ _____
* <i>If using multiple sureties</i>	Total Penal Sum of Bond:	\$ <u>179,000.00</u>

We, NORTHSTAR ELECTRICAL CONTRACTORS, INC., as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto Clackamas County and the City of Hillsboro, the sum of (Total Penal Sum of Bond) ONE HUNDRED SEVENTY NINE THOUSAND NO/100\*\*(\$179,000.00) (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety); and

WHEREAS, the Principal has entered into a contract with Clackamas County and the City of Hillsboro, along with the plans, specifications, terms and conditions of which are contained in above-referenced Solicitation; and

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Payment Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and schedule of contract prices which are set forth in the Contract and any attachments, and all authorized modifications of the Contract which increase the amount of the work, or the cost of the Contract, or constitute authorized extensions of time for performance of the Contract, notice of any such modifications hereby being waived by the Surety;

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall defend, indemnify, and save harmless Clackamas County, the City of Hillsboro, and its elected officials, officers, employees and agents, against any claim for direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors, and shall promptly pay all persons supplying labor, materials or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the



performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or prosecuted against Clackamas County and the City of Hillsboro on account of any labor or materials furnished; and shall do all things required of the Principal by the laws of this State, then this obligation shall be void; otherwise, it shall remain in full force and effect for so long as any term of the Contract remains in effect.

Nonpayment of the bond premium will not invalidate this bond nor shall Clackamas County and the City of Hillsboro be obligated for the payment of any premiums.

This bond is given and received under authority of Oregon Revised Statutes Chapter 279C and the Clackamas County Local Contractor Review Board Rules, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES:

Dated this October 30th day of October, 2021.

**PRINCIPAL:** NORTHSTAR ELECTRICAL CONTRACTORS, INC.

By: \_\_\_\_\_  
Signature  
President  
Official Capacity

Attest: \_\_\_\_\_  
Corporation Secretary

**SURETY:** MARKEL INSURANCE COMPANY  
[Add signatures for each if using multiple bonds]

BY ATTORNEY-IN-FACT:  
[Power-of-Attorney must accompany each bond]

ROBIN BAIRD  
Name

Robin Baird  
Signature

2103 CITY WEST BLVD STE 1300  
Address

HOUSTON TX 77042

City State Zip  
541-741-0550 541-741-1674

Phone Fax

# JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Michelle Bench, Robin Baird, Kyle Hudson, Keith Yam, Ken Price, William Kaufmann

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, any Senior Vice President, Vice President, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 3rd day of September, 2021.

SureTec Insurance Company

By: Michael C. Keimig  
Michael C. Keimig, President



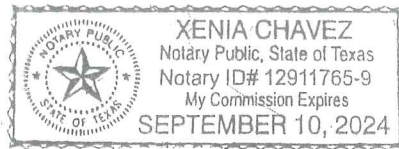
Markel Insurance Company

By: Lindsey Jennings  
Lindsey Jennings, Vice President

State of Texas  
County of Harris:

On this 3rd day of September, 2021 A. D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



By: Xenia Chavez  
Xenia Chavez, Notary Public  
My commission expires 9/10/2024

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 30 day of October, 2021.

SureTec Insurance Company

By: M. Brent Beaty  
M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By: Andrew Marquis  
Andrew Marquis, Assistant Secretary



CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT  
PROJECT INFORMATION, PLANS, SPECIFICATIONS AND DRAWINGS

PROJECT: #2021-79 CBX Fiber WCCCA Connection

**Project Scope:**

See attached drawings for design.

Bids will be lump sum for complete project. Total cost shall include traffic control and potholing of existing utilities. Full panel concrete restoration will also be required.

\*Note: include a per-foot rock adder cost.\*

Avoid touching/breaking ADA ramps when potholing or exposing drill head.

Payments to contractor will be approved and conducted through the City of Hillsboro.

**Splicing Requirements:**

N/A – Splicing will be completed under a different contract.

**Material Requirements:**

- Fiber Optic Cable: Provided by CBX, placed by the contractor
- Splice Case: N/A
- Conduit: 2” HDPE and 1” HDPE (CBX provided; Contractor Installed)
- Vaults: All vaults provided by CBX, placed by the contractor
- Risers: N/A
- Strand: N/A
- Premise Terminations: N/A

**General Requirements:**

1. All material and equipment needed to complete this project, with the exception of the list provided above, will be supplied by the contractor.
2. All utility make-ready costs will be the responsibility of Clackamas CBX.
3. City permit will be provided by CBX.
4. Contractor will be responsible for developing an approved traffic control plan. All flagging costs need to be included in the bid.
5. Place locate wire in all conduit that fiber is placed in.
6. CBX is not responsible for extra costs due to Subcontractors failure to review complete plans, drawings and specifications.

**Project Estimate: \$250,000.00**

**Key Dates:**

All Basic Bid Work may begin as soon as the Notice to Proceed (“NTP”) is issued

Substantial Completion: 90 days from NTP

Final Completion: 120 days from NTP

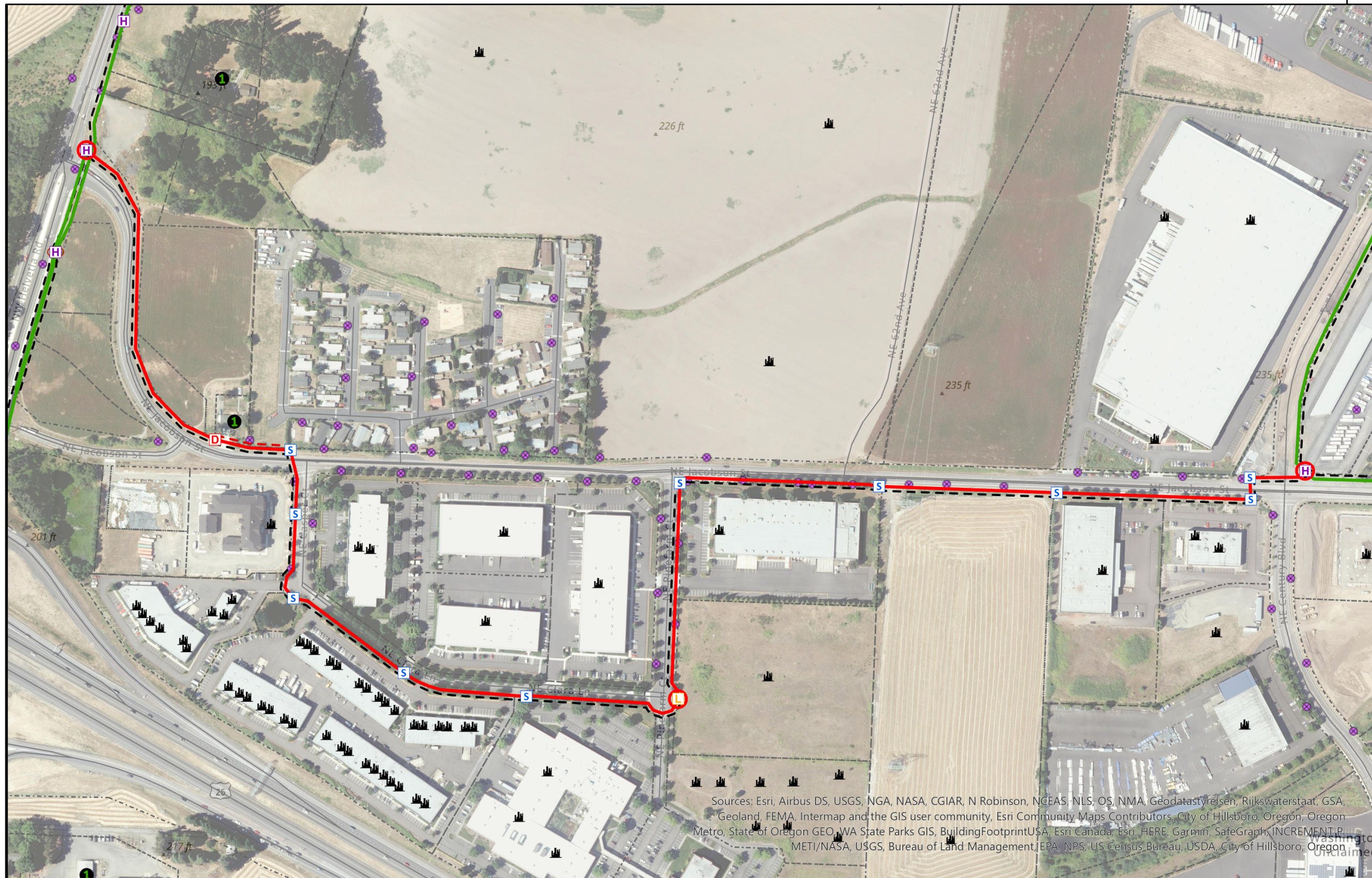
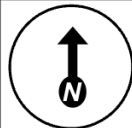
Time is of the essence for this Project.

**The Scope further includes the following Plans, Specifications and Drawings:**

- FIBER OPTIC CABEL ROUTE drawing set; 12 pages.



# HILLSBORO, OREGON WASHINGTON COUNTY



Hillsboro 911 Center

MAGELLAN ADVISORS

**HIOBB LINK**

TITLE: FIBER OPTIC CABLE ROUTE

HIOBB OUTSIDE PLANT  
UNDERGROUND ROW PERMIT/DESIGN  
CITY OF HILLSBORO

DATE: 04/09/21

ENGINEER: SM

DRAWN BY: MA

REVISIONS

DATE	DESCRIPTION	INITIAL



EXCEPT AS MAY BE OTHERWISE PROVIDED BY CONTRACT, THESE DRAWINGS AND SPECIFICATIONS SHALL REMAIN THE PROPERTY OF ACTAVO ENGINEERING SERVICES, BOTH BEING ISSUED IN STRICT CONFIDENCE AND SHALL NOT BE REPRODUCED, COPIED, OR USED FOR ANY PURPOSE WITHOUT SPECIFIC WRITTEN PERMISSION.

SCALE

HORIZONTAL: 1:3,600

VERTICAL: 1:3,600

MP TO MP

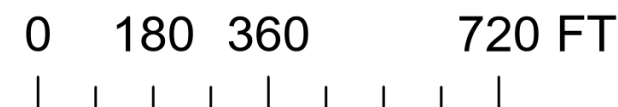
SHEET OF 138

\*\*\*\* NOTE \*\*\*\*  
CONDUIT SHOULD BE PLACED IN THE PUE WHERE AVAILABLE

CAUTION!!!  
CONTRACTOR TO LOCATE & VERIFY ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION

\*\*\*\* NOTE \*\*\*\*  
UTILITY & R.O.W. REPRESENTED ON PLANS ARE BASED ON RECORDS INFORMATION. NOT BASED ON BOUNDARY SURVEY & FIELD EXPOSURES.

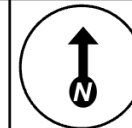
\*\*\*\* NOTE \*\*\*\*  
ALL CONDUIT TO BE PLACED AT 36" MINIMUM DEPTH UNLESS NOTED



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, City of Hillsboro, Oregon, Oregon Metro, State of Oregon GEO, WA State Parks GIS, BuildingFootprintUSA, Esri Canada, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, City of Hillsboro, Oregon



# HILLSBORO, OREGON WASHINGTON COUNTY



## Legend

MAGELLAN ADVISORS

**HIOBB LINK**

TITLE: FIBER OPTIC CABLE ROUTE

FTTH OUTSIDE PLANT  
UNDERGROUND ROW PERMIT/DESIGN  
CITY OF HILLSBORO

DATE: 04/09/21

ENGINEER: SM

DRAWN BY: MA

### REVISIONS

DATE	DESCRIPTION	INITIAL



EXCEPT AS MAY BE OTHERWISE PROVIDED BY CONTRACT, THESE DRAWINGS AND SPECIFICATIONS SHALL REMAIN THE PROPERTY OF ACTAVO ENGINEERING SERVICES, BOTH BEING ISSUED IN STRICT CONFIDENCE AND SHALL NOT BE REPRODUCED, COPIED, OR USED FOR ANY PURPOSE WITHOUT SPECIFIC WRITTEN PERMISSION.

### SCALE

HORIZONTAL:	1:279,502,278
VERTICAL:	1:279,502,278
MP	TO MP
SHEET	OF <u>138</u>

### Address

- Commercial
- Government
- Industrial
- Multi Family Residence
- School
- Single Family Residence
- Unknown
- Vacant
- <all other values>

Slackloop

### Conduit

- 1"
- 2"
- 4"
- Do Not Build
- Hillsboro Poles
- Hillsboro Base - WC Streets

### Hillsboro Base - WC Arterials

### Structure

- 11x18
- 24x36
- 30x48
- Existing HH

### Metro Classification

- 1100 - 1110
- 1111 - 1421

### Fibercable

#### Category,Status

- BB,Existing
- BB,Prelim
- DimensionLine

### Splice Closure

- Aerial NAP
- Aerial NAP/MCA
- MCA
- Other
- Reel End
- UG NAP
- UG NAP/MCA
- FDH Cabinet

### July 2018 6in

- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3

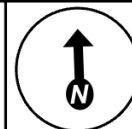
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PLANS ARE BASED ON RECORDS  
INFORMATION. NOT BASED ON  
BOUNDARY SURVEY & FIELD EXPOSURES.

\*\*\*\* NOTE \*\*\*\*  
ALL CONDUIT TO BE PLACED AT  
36" MINIMUM DEPTH UNLESS NOTED

# HILLSBORO, OREGON WASHINGTON COUNTY



**General Notes**

**MAGELLAN ADVISORS**

**HIOBB LINK**

TITLE: FIBER OPTIC CABLE ROUTE

FTTH OUTSIDE PLANT  
UNDERGROUND ROW PERMIT/DESIGN  
CITY OF HILLSBORO

DATE: 04/09/21

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**REVISIONS**

DATE	DESCRIPTION	INITIAL



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**SCALE**

HORIZONTAL:	1:640
VERTICAL:	1:640
MP	TO MP
SHEET	OF 138

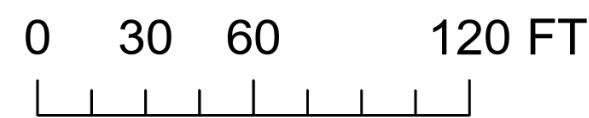
LOCATES	CONSTRUCTION STANDARDS	RESTORATION
<p>1. OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090 AND ORS 757.541 TO 757.571. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE NOTIFICATION CENTER AT 503-246-6699. THE CONTRACTOR SHALL HAVE A COPY OF THE APPROVED PERMIT INCLUDING ALL ATTACHMENTS AND A SET OF APPROVED CONSTRUCTION DRAWINGS ON SITE AT ALL TIMES.</p> <p>2. ALL LOCATE REQUESTS SHALL BE PRECEDED BY HAVING THE AREA PRE-MARKED WITH WHITE PAINT.</p>	<p>1. THE APPLICANT IS RESPONSIBLE FOR THE LOCATION OF ALL UTILITIES WITHIN THE WORK AREA AND IS REQUIRED TO NOTIFY ALL APPLICABLE UTILITY COMPANIES 48-HOURS, BEFORE COMMENCEMENT OF WORK.</p> <p>2. POTHOLING IS REQUIRED PRIOR TO CROSSING ANY CITY-OWNED UTILITY.</p> <p>3. APPLICANT MUST MAINTAIN MINIMUM VERTICAL AND HORIZONTAL CLEARANCES FROM EXISTING UTILITIES AT ALL TIMES AND AVOID CROSSING AT HIGHLY ACUTE ANGLES.</p> <p>4. THE FOLLOWING HORIZONTAL CLEARANCES SHALL BE MAINTAINED:                      - CABLE TV - 5'                      - NATURAL GAS - 5'                      - ELECTRICAL - 5'                      - STORM SEWER - 5'                      - SANITARY SEWER - 10' OR AS ALLOWED BY OAR 333-061-0050                      - TELEPHONE, FIBER OPTICS - 5'                      - OTHER (NOT SPECIFIED) - 5' OR AS REQUIRED BY THE WATER DEPARTMENT</p> <p>5. THE FOLLOWING VERTICAL CLEARANCES SHALL BE MAINTAINED                      - CABLE TV - 12"                      - NATURAL GAS - 12"                      - ELECTRICAL - 12"                      - STORM SEWER - 12"                      - SANITARY SEWER - 18" OR AS ALLOWED BY OAR 333-061-0050                      - TELEPHONE, FIBER OPTICS - 12"                      - OTHER (NOT SPECIFIED) - 12" OR AS REQUIRED BY THE WATER DEPARTMENT</p> <p>6. ALL UTILITIES SHALL CROSS UNDER WATER PIPING AND APPURTENANCES UNLESS OTHERWISE AUTHORIZED BY THE WATER DEPARTMENT ENGINEERING MANAGER.</p> <p>7. 2" CITY FIBER DISTRIBUTION LINE CONDUIT SHALL BE INSTALLED ALONG STREET FRONTAGE IN THE PUBLIC UTILITY EASEMENT (IF AVAILABLE) OR WITHIN STREET RIGHT-OF-WAY FOR ALL RESIDENTIAL AND COMMERCIAL CONSTRUCTION PROJECTS.</p> <p>8. ALL TRENCHES SHALL BE A MINIMUM OF 36 INCHES IN DEPTH, BACKFILLED WITH CLEAN ¾" MINUS CRUSHED ROCK, COMPACTED IN 2 FOOT MAXIMUM LIFTS TO 95% AASHTO T-99 TEST METHOD.</p> <p>9. TRENCHES IN UNIMPROVED ROADWAYS (WITHOUT CURBS) MUST BE A MINIMUM OF 48" IN DEPTH AND ADHERE TO THE SAME COMPACTION TEST (THIS STIPULATION ALSO APPLIES TO JOINT TRENCH INSTALLATION IN NEWLY CONSTRUCTION STREETS). THE CITY OF HILLSBORO SHALL BE SUPPLIED WITH COMPACTION TEST RESULTS FROM A CERTIFIED TESTING LABORATORY.</p> <p>10. TEMPORARY COLD MIX ASPHALT REPAIR IS ALLOWABLE. THE TEMPORARY REPAIR SHALL BE RECONSTRUCTED IN ACCORDANCE WITH THE CITY OF HILLSBORO DESIGN AND CONSTRUCTION STANDARDS, WITHIN SEVEN CALENDAR DAYS.</p> <p>11. ALL STREET CUTS 9 SQUARE FEET OR GREATER WILL REQUIRE A COMPACTION TEST ON THE BASE AND ASPHALT. IN PLACE DENSITY TESTS WILL BE REQUIRED FOR FIRST LIFT 91% COMPACTION AND 92% FOR ANY OTHERS.</p> <p>12. THE CITY OF HILLSBORO HAS A 5 YEAR MORATORIUM ON CUTTING NEWLY CONSTRUCTED STREETS AND STREET OVERLAYS.</p> <p>13. ALL ASPHALT STREET TRENCHES SHALL BE SAW CUT.</p> <p>14. CONCRETE STREET TRENCHES SHALL BE SAW CUT.</p> <p>15. CONCRETE STREET TRENCHING SHALL BE ACCOMPLISHED BY THE REMOVAL AND REPLACEMENT OF FULL PANELS, WHERE DOWELING WILL BE UTILIZED.</p>	<p>1. WHEN A CONTRACTOR DOES ANY WORK IN OR AFFECTING ANY RIGHTS-OF-WAY, IT SHALL AT ITS OWN EXPENSE, TO PROMPTLY RESTORE SUCH WAY OR PROPERTY TO AT LEAST THE SAME CONDITION THAT IT WAS IN PRIOR TO EXCAVATION IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL LAWS.</p> <p>2. WHEN SIDEWALK PANELS MUST BE REMOVED FOR INSTALLATION PURPOSES, ONLY FULL PANELS ARE TO BE REPLACED TO AN ORIGINAL OR BETTER CONDITION.</p> <p>3. ALL NEW PANELS ARE TO BE EDGE-SHINED ON ALL 4 SIDES OR MATCH EXISTING.</p> <p>4. ANY WATER METERS IN EXISTING PANELS MUST BE RESET TO MATCH THE ELEVATION OF THE FRESH CONCRETE SO AS TO NOT CREATE A TRIPPING HAZARD.</p> <p>5. THE WATER DEPARTMENT WILL PROVIDE NEW METER BOXES FOR ONES NEEDING REPLACEMENT. CONTACT THE WATER DEPARTMENT AT 503-615-6700.</p> <p>6. THE NEW PANELS MUST BE COVERED DURING INCLEMENT WEATHER TO ALLOW ADEQUATE CURE TIME.</p> <p>7. ALL DISTURBED LANDSCAPED AREAS (TREES, SHRUBS, GRASS, FLOWERS, ETC) DAMAGED DURING THE PROJECT SHALL BE RESTORED BY THE GRANTEE OR CONTRACTOR TO ORIGINAL OR BETTER CONDITION.</p> <p>8. WHEN WORKING NEAR STREET TREES, STAY OUTSIDE OF ITS DRIP LINE.</p> <p>9. EXISTING SURVEY MONUMENTS ARE TO BE PROTECTED DURING CONSTRUCTION OR REPLACED IN ACCORDANCE WITH OREGON REVISED STATUTES 209.140 - 209.155 AT THE EXPENSE OF THE GRANTEE OR CONTRACTOR.</p> <p>10. A PROFESSIONAL PLUMBER AT THE EXPENSE OF THE GRANTEE OR CONTRACTOR MUST REPAIR ANY DAMAGE TO EXISTING PLUMBING LINES OR PRIVATE PROPERTY (LATERALS).</p> <p>11. IT IS SUGGESTED THAT THE GRANTEE OR CONTRACTOR PERFORM A SITE INSPECTION PRIOR TO COMMENCEMENT OF WORK AND ANY EXISTING DEFECTS SHOULD BE RECORDED. THIS PROCEDURE WILL HELP TO PREVENT ANY UNDUE DAMAGED BEING LOBBIED AGAINST THE CONTRACTOR.</p> <p>12. IF THE CONTRACTOR FAILS TO RESTORE RIGHTS-OF-WAY OR PROPERTY AS REQUIRED IN THE PERMIT, THE CITY SHALL GIVE THE CONTRACTOR WRITTEN NOTICE AND PROVIDE A REASONABLE PERIOD OF TIME NOT LESS THAN 10-DAYS, UNLESS A THREAT TO PUBLIC SAFETY IS DEEMED TO EXIST, AND NOT EXCEEDING 30 DAYS TO RESTORE THE RIGHTS-OF-WAY OR PROPERTY.</p> <p>13. IF, AFTER SAID NOTICE, THE CONTRACTOR OR GRANTEE OF THIS PERMIT FAILS TO RESTORE THE RIGHTS-OF-WAY OR PROPERTY AS REQUIRED IN THE PERMIT, THE CITY SHALL CAUSE SUCH RESTORATION TO BE MADE AT THE EXPENSE OF THE CONTRACTOR OR GRANTEE.</p> <p>14. ALL WORK WILL BE IN CONFORMANCE TO THE CITY OF HILLSBORO PUBLIC WORK'S DESIGN AND CONSTRUCTION STANDARDS (LATEST VERSION).</p> <p>15. ALL FACILITIES INSTALLED UNDER THIS PERMIT SHALL BE FIELD LOCATED POST-CONSTRUCTION UTILIZING GNSS RECEIVERS AND ALL POSITIONS SHALL BE REPORTED WITH A RELATIVE ACCURACY OF 1.5 FEET.</p>
<b>AUTHORIZED PERIODS OF WORK</b>		
<p>1. CONTRACTORS SHALL PROMPTLY COMPLETE ALL CONSTRUCTION ACTIVITIES SO AS TO MINIMIZE DISRUPTION OF THE CITY RIGHT-OF-WAYS AND OTHER PUBLIC AND PRIVATE PROPERTY.</p> <p>2. ALL CONSTRUCTION WORK WITHIN RIGHTS-OF-WAY, INCLUDING RESTORATION, MUST BE COMPLETED WITHIN 120 DAYS OF THE DATE OF ISSUANCE OF THIS PERMIT UNLESS AN EXTENSION OR AN ALTERNATE SCHEDULE HAS BEEN APPROVED BY THE APPROPRIATE CITY OFFICIAL.</p>		
<b>EROSION CONTROL</b>		
<p>1. ALL APPLICABLE EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO THE START OF CONSTRUCTION AND SHALL BE MAINTAINED THROUGHOUT THE ENTIRE PROJECT.</p> <p>2. ALL EXPOSED SOILS WITHIN THE CWS WET WEATHER MEASURE DATES, NEED EITHER A 6-MILL PLASTIC SHEET COVER OR A 2" MINIMUM STRAW MULCH COVER AS PER CHAPTER 8 OF CLEAN WATER SERVICES DESIGN AND CONSTRUCTION STANDARDS.</p> <p>3. THIS PRIMARILY APPLIES TO, BUT IS NOT LIMITED TO, OPEN TRENCHING INSTALLATION. SOILS FROM BORE PIT EXCAVATION MUST BE COVERED WITH VISQUEEN AT THE END OF EACH WORKING DAY IF STILL ON-SITE.</p>		
<b>TRAFFIC CONTROL</b>		
<p>1. CITY STREETS ARE NOT ALLOWED TO BE CLOSED UNLESS PRIOR APPROVAL IS GRANTED.</p> <p>2. PEDESTRIAN AND BICYCLE TRAFFIC ACCOMMODATIONS SHALL BE MADE TO ENSURE SAFE PASSAGE THROUGH OR AROUND WORK SITES.</p> <p>3. TRAFFIC CONTROL SHALL BE PERFORMED IN ACCORDANCE TO THE OREGON TEMPORARY TRAFFIC CONTROL HANDBOOK FOR OPERATIONS OF THREE DAYS OR LESS OR M.U.T.C.D. IF LONGER.</p> <p>4. A TRAFFIC CONTROL PLAN WILL BE REQUIRED FOR ANY TEMPORARY DIVERSION OR CLOSURE OF HILLSBORO STREETS IF THE DIVERSION OR CLOSURE TO THE RIGHT-OF-WAY IS LONGER THAN 15 MINUTES. ALL TRAFFIC CONTROL PLAN WILL REQUIRE APPROVAL OF THE CITY ENGINEER PRIOR TO COMMENCEMENT OF WORK.</p>		

\*\*\*\* NOTE \*\*\*\*  
CONDUIT SHOULD BE PLACED  
IN THE PUE WHERE AVAILABLE

CAUTION!!!  
CONTRACTOR TO LOCATE &  
VERIFY ALL EXISTING UTILITIES  
PRIOR TO CONSTRUCTION

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PLANS ARE BASED ON RECORDS  
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36" MINIMUM DEPTH UNLESS NOTED





## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/21/2021
---------------------------------

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> KPD Insurance, Inc. PO Box 784 Springfield OR 97477	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2"><b>CONTACT NAME:</b></td> </tr> <tr> <td><b>PHONE (A/C, No, Ext):</b> 541-741-0550</td> <td><b>FAX (A/C, No):</b> 541-741-1674</td> </tr> <tr> <td colspan="2"><b>E-MAIL ADDRESS:</b> wc-certs@kpdinsurance.com</td> </tr> <tr> <td colspan="2" style="text-align: center;"><b>INSURER(S) AFFORDING COVERAGE</b></td> </tr> <tr> <td><b>INSURER A:</b> SAIF Corp</td> <td style="text-align: right;"><b>NAIC #</b> 36196</td> </tr> <tr> <td><b>INSURER B:</b></td> <td></td> </tr> <tr> <td><b>INSURER C:</b></td> <td></td> </tr> <tr> <td><b>INSURER D:</b></td> <td></td> </tr> <tr> <td><b>INSURER E:</b></td> <td></td> </tr> <tr> <td><b>INSURER F:</b></td> <td></td> </tr> </table>	<b>CONTACT NAME:</b>		<b>PHONE (A/C, No, Ext):</b> 541-741-0550	<b>FAX (A/C, No):</b> 541-741-1674	<b>E-MAIL ADDRESS:</b> wc-certs@kpdinsurance.com		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>INSURER A:</b> SAIF Corp	<b>NAIC #</b> 36196	<b>INSURER B:</b>		<b>INSURER C:</b>		<b>INSURER D:</b>		<b>INSURER E:</b>		<b>INSURER F:</b>	
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<b>INSURER D:</b>																					
<b>INSURER E:</b>																					
<b>INSURER F:</b>																					
<b>INSURED</b> Northstar Electrical Contractors Inc. 11055 SW Clay Street Sherwood OR 97140	NORTELE02W																				

**COVERAGES** **CERTIFICATE NUMBER:** 633017901 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below <span style="float: right;">Y / N    <input type="checkbox"/> N / A</span>			793309	9/1/2021	9/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 RE: #2021-79 CBX Fiber WCCCA Connection - Contract #4629  
 \* Additional Insured Does Not Apply to Workers' Compensation

**CERTIFICATE HOLDER** **CANCELLATION**

Clackamas County 150 Beaver Creek Road Oregon City OR 97045	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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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 Providence Health & Services – Oregon to provide  
Medical Screening Services

<b>Purpose/Outcomes</b>	Execution of the contract between Clackamas County, Department of Human Resources (Risk & Safety Division) and Providence Health & Services Oregon
<b>Dollar Amount and Fiscal Impact</b>	Total Contract value not to exceed \$500,000. Contractor will bill as time and materials per contracted rates.
<b>Funding Source</b>	Services billed directly to departments
<b>Duration</b>	From Contract execution through October 31, 2025.
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Effectively managing our risks to preserve the assets of the organization from predictable and accidental loss, most closely aligns with the strategic goal of building public trust through good government
<b>Procurement Review</b>	1. Was this item processed through Procurement? <input checked="" type="checkbox"/> yes <input type="checkbox"/> no 2. If no, provide a brief explanation:
<b>Counsel Review</b>	Reviewed Date: 11-4-2021 ARN
<b>Contact Person</b>	Eric Machado, Risk Manager, 503-655-8576
<b>Contract #</b>	4811

**Background:**

The County's existing medical services contract has expired. Clackamas County uses a medical provider to perform medical screening to ensure employees are able to meet pre-employment job classification standards as well as any on-going services that may be required by occupational and health safety rules. Professional services include but are not limited to: job analysis, physical capacity testing, pre-placement exams, drug testing and occupational health monitoring. Clackamas County's Risk and Safety Division has identified Providence as the medical vendor that would best fit the County's current needs.



**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on August 26, 2021. Proposals were opened on September 27, 2021. The County received two (2) proposals, from: Occupational health Centers, dba Concertra Health Centers, and Providence Health and Services – Oregon. The evaluation committee consisted of six (6) County employees from various departments that would use this service. . The evaluation committee recommended that Providence Health and Services - Oregon be awarded the Contract. A notice of intent to award was published on October 19, 2021 and no protests were received.

**Recommendation:**

Staff respectfully recommends that the board approve and execute the Contract with Providence Health and Services – Oregon for Medical Screening Services.

Sincerely,

Evelyn Minor-Lawrence, IPMA-CP	Digitally signed by Evelyn Minor-Lawrence, IPMA-CP Date: 2021.11.09 12:56:40 -08'00'
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Evelyn Minor-Lawrence, Director

Placed on the BCC Agenda \_\_\_\_\_ by Procurement and Contract Services



**CLACKAMAS COUNTY  
PERSONAL SERVICES CONTRACT  
Contract #4811**

This Personal Services Contract (this “Contract”) is entered into between **Providence Health & Services - Oregon** (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”).

**ARTICLE I.**

- 1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on October 31, 2025. This Contract may be renewed for one (1) additional one-year term at the written approval of both parties.
- 2. Scope of Work.** Contractor shall provide on-call medical screening services (“Work”), further described in RFP 2021-65 Medical Screening Services, attached hereto as **Exhibit A** and incorporated by reference.

This Contract is on an “on-call” or “as-needed basis” for Work.

When the County wishes Contractor to perform the Work, the County will submit an official County Task Order form (found at: <https://www.clackamas.us/finance/terms.html>) detailing the Scope of Work, the entity on whose behalf the Work will be performed, and the total compensation, pursuant to the fee schedule set forth in this Contract. Contractor may not perform Work until the County Task Order form has been executed by the parties. In the event a project authorized under the County Task Order extends beyond the expiration of this Contract, the County Task Order shall remain in effect under the terms of this Contract until the completion or expiration of the authorized task.

No Task Order shall modify or amend the terms and conditions of this Contract.

Contractor agrees to perform the Work on behalf of the County and the following entities: Water Environment Services, North Clackamas Parks and Recreation District, the Development Agency of Clackamas County, the Housing Authority of Clackamas County, and any special district or urban renewal agency that follows the County’s Local Contract Review Board rules and is approved by the County, in writing, to receive the Work under this Contract.

- 3. Consideration.** In consideration for Contractor performing the Work, the County agrees to pay Contractor, from available and authorized funds, a sum not to exceed \$100,000.00 per Contract year, for a total amount not to exceed **\$500,000.00** over the life of this Contract, including the optional one-year renewal. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in **Exhibit C**, Contractors Proposal. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A and Exhibit B.
- 4. Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. 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 invoices shall include the total amount billed to date by Contractor prior to the current invoice. 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 in accordance with ORS 293.462 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 be obligated to 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.

Invoices shall be provided to the County Representative as noted on each individual Task Order.

**5. Travel and Other Expense.** Authorized:  Yes  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: <https://www.clackamas.us/finance/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, Exhibit A, Exhibit B, Exhibit C, and Exhibit D.

**7. Contractor and County Contacts.**

<b>Contractor Administrator: Aimee Tinkle</b> Phone: 971-369-0823 Email: <a href="mailto:aimee.tinkle@providence.org">aimee.tinkle@providence.org</a>	<b>County Administrator: Eric Machado</b> Phone: 503-655-8576 Email: <a href="mailto:emachado@clackamas.us">emachado@clackamas.us</a>
---	---

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 will subject Contractor payments to backup withholding.

**ARTICLE II.**

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted 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. Contractor shall maintain such books and records 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 FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
- 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 applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.

5. **COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
6. **GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and 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. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
7. **RESPONSIBILITY FOR DAMAGES; INDEMNITY.** 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. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
8. **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; and (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.
9. **INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input checked="" type="checkbox"/> Required – 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.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required –Medical Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$3,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Abuse & Molestation endorsement with limits not less than \$1,000,000 per occurrence if not included in the Commercial General Liability policy.
<input checked="" type="checkbox"/> Required – Cyber Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions.

The policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

**10. LIMITATION OF LIABILITIES.** 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. Except for liability arising under or related to Article II, Section 13 or Section 20 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.

**11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

**12. 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. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual

property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.

- 13. 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) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. 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, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, 28, and 31 and all other rights and obligations which by their context are intended to survive. 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.
- 15. 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.
- 16. 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, which shall be granted or denied in the County's sole discretion. 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, Sections 1, 7, 8, 13, 16 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.
- 17. 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.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and 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 or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties; (B) by either party for convenience upon thirty (30) days written notice to the non-terminating party; (C) by County at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (D) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.



Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, 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.

- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. 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.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. 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.
- 24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall 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.
- 25. 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.
- 26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, 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.
  - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
  - c. Not permit any lien or claim to be filed or prosecuted against 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.
  - e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.



- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

**27. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.

**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 a breach of its data security or the 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. COOPERATIVE CONTRACTING.** Pursuant to ORS 279A.200 to 279A.225, other public agencies may use this Contract resulting from a competitive procurement process unless the Contractor expressly noted in their proposal/quote that the prices and services are available to the County only. The condition of such use by other agencies is that any such agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with Contractor; the County accepts no responsibility for performance by either the Contractor or such other agency using this Contract. With such condition, the County consents to such use by any other public agency.

**30. FEDERAL CONTRACTING REQUIREMENTS.** County intends that all or a portion of the consideration paid to Contractor is eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency. This Contract is subject to the additional terms and conditions, required by federal law for a federal award, set in **Exhibit B**, attached hereto and incorporated by this reference herein. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.

Contractor shall, as soon as commercially practicable, register itself with the federal System for Award Management (SAM). Information regarding registration with SAM may be found at <https://www.sam.gov>.

**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.

**SIGNATURE PAGE FOLLOWS**

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

**Providence Health & Services - Oregon**

**Clackamas County**

Aimee L Tinkle Digitally signed by Aimee L Tinkle  
Date: 2021.11.04 09:59:21  
-07'00' 11/04/2021

\_\_\_\_\_  
Authorized Signature Date

**Aimee Tinkle, Sr Manager**

\_\_\_\_\_  
Name / Title (Printed)

037230-12 DNP / Oregon  
Oregon Business Registry #

\_\_\_\_\_  
Chair

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

**Approved as to Form:**

Andrew Naylor Digitally signed by Andrew Naylor  
Date: 2021.11.04 13:15:24 -07'00'

\_\_\_\_\_  
County Counsel Date

**EXHIBIT A**  
**RFP 2021-65 MEDICAL SCREENING SERVICES**  
**ISSUED: August 26, 2021**



**REQUEST FOR PROPOSALS #2021-65**

**FOR**

**MEDICAL SCREENING SERVICES**

**BOARD OF COUNTY COMMISSIONERS**

**TOOTIE SMITH, Chair**  
**SONYA FISCHER, Commissioner**  
**PAUL SAVAS, Commissioner**  
**MARK SHULL, Commissioner**  
**MARTHA SCHRADER, Commissioner**

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**Gary Schmidt**  
**County Administrator**

**Kim Randall**  
**Contract Analyst**

**PROPOSAL CLOSING DATE, TIME AND LOCATION**

**DATE:** September 27, 2021

**TIME:** 2:00 PM, Pacific Time

**PLACE:** [Procurement@clackamas.us](mailto:Procurement@clackamas.us)

## **SCHEDULE**

Request for Proposals Issued.....	August 26, 2021
Protest of Specifications Deadline.....	September 2, 2021, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	September 16, 2021, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	September 27, 2021, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	November 2021

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**SECTION 1**  
**NOTICE OF REQUEST FOR PROPOSALS**

Notice is hereby given that Clackamas County through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, September 27, 2021** (“Closing”), to provide Medical Screening Services. No Proposals will be received or considered after that time.

RFP Documents can be downloaded from the state of Oregon procurement website (“OregonBuys”) at the following address <https://oregonbuys.gov/bsa/view/login/login.xhtml>, Document No. S-C01010-000000605.

Prospective Proposers will need to sign in to download the information and that information will be accumulated for a Plan Holder's List. Prospective Proposers are responsible for obtaining any Addenda, clarifying questions, and Notices of Award from OregonBuys. Sealed Proposals are to be emailed to Clackamas County Procurement Services at [procurement@clackamas.us](mailto:procurement@clackamas.us).

Contact Information

Procurement Process and Technical Questions: Kim Randall, 503-742-5443 or email preferred at [krandall@clackamas.us](mailto:krandall@clackamas.us)

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 proposals from Minority, Women, Veteran 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. 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 OregonBuys for any notices, published addenda, or response to clarifying questions.

**2.5 Submission of Proposals:** 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 in a Notice of Intent to Award published on OregonBuys. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract. Competing Proposers shall be given seven (7) calendar days from the date on the Notice of Intent to Award 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. 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 and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer; OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer as nonresponsive, if such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name a new apparent successful Proposer; OR
- c. reject all Proposals and cancel the procurement.

**2.7 Acceptance of Contractual Requirements:** Failure of the selected Proposer 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 192.345(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 192.345(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 192.345). 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 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 is 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 the 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 is seeking Proposals from vendors to provide Medical Screening Services.

**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**

Clackamas County uses a medical provider to perform medical screening to ensure employees are able to meet pre-employment job classification standards as well as any on-going services that may be required by occupational and health safety rules.

### **3.3. SCOPE OF WORK**

#### **INTRODUCTION:**

The Clackamas County Human Resources department is requesting proposals from qualified, independent, and objective Contractors to provide professional occupational health services.

#### **PURPOSE AND OBJECTIVE:**

The purpose of this RFP is to obtain: professional and cost proposals covering professional occupational health services, which include but are not limited to: job analyses, functional capacity evaluations, pre-placement examinations and occupational health monitoring from qualified, independent occupational medical provider firms.

Clackamas County requires pre-placement examinations in positions with physical demands and drug screens for selected candidates.

Therefore, Clackamas County's objective is to select one or more occupational medical firm(s) qualified to provide the services listed below.

#### **MEDICAL:**

The Contractor will complete a comprehensive medical history assessment for a variety of job candidates in a variety of positions throughout the County to include complete physical examination and physical capacity testing by a physician and/or occupational therapist with emphasis on the neurological and orthopedic problems that might interfere with performing the essential job functions. Types of assessments include:

##### Job Analyses

- Identify and document job tasks and physical demands
- Develop tests to measure applicant(s) ability to complete job tasks and physical demands
- Validate tests
- Implement tests

Pre-placement exams, to include:

- Vital signs, height, weight, vision and body systems with emphasis on neuromuscular and orthopedic systems
- Comprehensive medical history review
- Audiometry (Hearing) exams

Functional capacity evaluations, to include:

- Heavy Physical demands capacity testing
- Light Physical demands capacity testing
- Return to work or Fit for duty exam

DOT (Dept. of Transportation), to include:

- Physical exam
- Drug analysis screening with chain of evidence procedures in positions where Clackamas County policy allows (pre and post-employment) (DOT and non-DOT)
- Medical review services for positive DOT drug analysis screening

Non-Dot Drug and Alcohol Testing to include:

- Drug and analysis screening with chain of evidence procedures (Non-DOT test – all inclusive, includes collections/lab test/MRO)
- Medical review service for positive non-DOT drug analysis screening
- Breathe Alcohol Analysis screening with chain of evidence procedures

NIOSH approved respiratory testing:

- Respirator Physical
- Pulmonary function test
- Spirometry test

Additional Services (as requested):

- Hepatitis A Vaccination Series
- Hepatitis B Vaccination Series
- Hepatitis C Vaccination Series
- Tetanus Vaccine TDAP – includes administration
- Tuberculosis Skin Test (PPD)
- Blood draw lab test
- Chest X-Ray
- Physician Consult
- TB test review/X-Ray order by MD
- Other testing that may be relevant to position not listed above but may be included on the Contractor's pricelist
- On-site services as needed

Complete physical examinations and physical capacity testing must be performed by licensed medical physicians and/or an occupational therapist familiar with the unique physical demands of the position.

### **REPORTS:**

Following the assessment(s), the results and recommendations are provided, usually within twenty-four to forty-eight (24- 48) hours verbally and a written assessment within five (5) successive business days.

Written reports must be provided to the department evaluating the suitability of the applicant or employee for the job based upon an analysis of all available data, test and interview results. The final written reports must include any reservations that the physician(s) might have regarding the validity or reliability of the results.

### **CONTRACTOR RESPONSIBILITIES:**

The Contractor must be able to:

- 1) Meet the medical and physical assessment testing requirements needs of Clackamas County.
- 2) Have multi-appointments for multi-candidates for multi-tests without subcontracting to multiple service providers with the exception of drug analysis screening;
- 3) Schedule with reasonable time notification and in some cases provide their services almost immediately;
- 4) Must have qualified and medically certified personnel conducting the medical testing; and,
- 5) Must be able to provide the necessary report(s), either written and/or verbal based on the County's timelines
- 6) Must meet all applicable Federal, State and Local laws & regulations, including HIPPA and the Americans with Disabilities Act (ADA) and shall successfully defend the results when challenged.
- 7) All written reports become property of Clackamas County.

### **DEPARTMENT RESPONSIBILITIES:**

The County will notify the applicant or employee verbally and/or in writing of the requirement to take a medical examination(s) and/or physical capacity evaluation and will give the Contractor's name, address, telephone number so the candidate can call for their appointment based on their schedule and the timeline established by the County. The County will also provide to the Contractor any information that is needed to assist in the conducting of the test(s).

#### **3.3.3. Term of Contract:**

The term of the contract shall be from the effective date through **10/31/2025**, with the option for one (1) additional one-year renewal thereafter subject to the mutual agreement of the parties.

**3.3.4 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 Personal Services Contract for this RFP can be found at <https://www.clackamas.us/finance/terms.html>.



**Personal Services Contract** (unless checked, item does not apply)

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

- Article I, Paragraph 5 – Travel and Other Expense is Authorized
- Article II, Paragraph 28 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Article II, Paragraph 32 – Federal Contracting Requirements
- Exhibit A – On-Call Provision

The following insurance requirements will be applicable:

- 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.
- 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.
- Medical Professional Liability (\$1/\$3M)
- Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.
- Cyber Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions

**SECTION 4  
EVALUATION PROCEDURE**

**4.1** An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals in accordance with the below criteria. The evaluation committee may recommend an award 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. 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 a contract 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 a different Proposer, 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>
Proposer’s General Background and Qualifications	0-30
Scope of Work	0-35
Fees	0-35
<b>Available points</b>	<b>0-100</b>

**4.3** Once a selection has been made, the County will enter into contract negotiations. During negotiation, 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 contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the County is unable to come to terms with the highest scoring Proposer, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple phases and the County deems it is in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer to complete the remaining phases.

**SECTION 5  
PROPOSAL CONTENTS**

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

**5.1.1.** Complete Proposals must be 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.

**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.

**5.1.4.** Proposal may not exceed a total of **30 pages** (single-sided), inclusive of all exhibits, attachments or other information.

**Provide the following information in the order in which it appears below:**

**5.2. Proposer’s General Background and Qualifications:**

- Description of the firm.
- Credentials/experience of key individuals that would be assigned to this project.
- Description of providing similar services to public entities of similar size within the past five (5) years.
- Description of the firm’s ability to meet the requirements in Section 3.
- Description of what distinguishes the firm from other firms performing a similar service.

**5.3. Scope of Work**

Complete physical examination by a physician with emphasis on the neurological and orthopedic problems that might interfere with performing the essential job functions of the position for which they are being hired.

Place a check ( ✓ ) in front of those items that you can provide.

\_\_\_\_\_ Job Analyses

\_\_\_\_\_ Pre-placement exams (comprehensive medical history assessment must be included)

\_\_\_\_\_ Functional capacities testing

\_\_\_\_\_ Return-to-work exams

\_\_\_\_\_ DOT (Dept. of Transportation)

\_\_\_\_\_ Fit for duty exams

\_\_\_\_\_ Non-DOT\_Drug Analysis Screening with chain of evidence procedures

\_\_\_\_\_ Breathe Alcohol Analysis Screening with chain of evidence procedures

\_\_\_\_\_ Examination by Physician with emphasis on neuromuscular and orthopedic systems

\_\_\_\_\_ NIOSH approved respiratory testing

\_\_\_\_\_ Complete physical examinations must be performed by licensed medical physicians familiar with the unique physical demands of the positions being evaluated (comprehensive medical history assessment must be included)

\_\_\_\_\_ Electronic/written reports as specified in section 3.3 (*please provide examples*)

\_\_\_\_\_Any addition services as specified in section 3.3 (*please explain*)

**5.4. Fees**

Complete **Attachment #1 Fee Schedule** for each service that you provide and the associated rate. If you do not offer the service, leave blank. For each Contract Year the fees shall be fixed. By September 1<sup>st</sup> of each Contract year, the Contractor may request an increase in the fees (for the next Contract year) in an amount not to exceed the increase in the Consumer Price Index, West Region (CPI-U) or a maximum of four percent (4%). Any such increase shall only be approved through an Amendment to the Contract.

**5.5. References**

Provide at least three (3) references from clients your firm has served similar to the County in the past three (3) years, including one client that has newly engaged the firm in the past thirty-six (36) months and one (1) long-term client. Provide the name, address, email, and phone number of the references. Please note the required three references may not be from County staff, but additional references may be supplied

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

**PROPOSAL CERTIFICATION**  
**RFP #2021-65**

Submitted by: \_\_\_\_\_  
**(Must be entity's full legal name, and State of Formation)**

Each Proposer must read, complete and submit a copy of this Proposal Certification with their Proposal. Failure to do so may result in rejection of the Proposal. By signature on this Proposal Certification, the undersigned certifies that they are authorized to act on behalf of the Proposer and that under penalty of perjury, the undersigned will comply with the following:

**SECTION I. OREGON TAX LAWS:** As required in ORS 279B.110(2)(e), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Proposer is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means the tax laws of the state or a political subdivision of the state, including ORS 305.620 and ORS chapters 316, 317 and 318. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Proposer to 24% backup withholding.

**SECTION II. NON-DISCRIMINATION:** That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

**SECTION III. CONFLICT OF INTEREST:** The undersigned hereby certifies that no elected official, officer, agent or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this RFP, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its elected officials, officers, agents, or employees had induced Proposer to submit this Proposal. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a proposal for the same material, and is in all respects fair and without collusion or fraud.

**SECTION IV. COMPLIANCE WITH SOLICITATION:** The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the RFP (including any attachments); and
2. Are an authorized representative of the Proposer, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the RFP and Proposal; and
4. Will use recyclable products to the maximum extend economically feasible in the performance of the contract work set forth in this RFP.

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
Email: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Oregon Business Registry Number: \_\_\_\_\_ OR CCB # (if applicable): \_\_\_\_\_

Business Designation (check one):

Corporation  Partnership  Sole Proprietorship  Non-Profit  Limited Liability Company

Resident Quoter, as defined in ORS 279A.120

Non-Resident Quote. Resident State: \_\_\_\_\_

**ATTACHMENT #1 FEE SCHEDULE**  
**(Please complete and return)**

SERVICES	Service Offered (X if Yes)	FEE(S)
<b>Job Analyses/Physical Capacity Test Creations:</b>		\$ -
Identify and document job tasks and physical demands		\$ -
Develop tests to measure		\$ -
Validate tests		\$ -
Implement tests		\$ -
<b>Pre-Placement Exams to include:</b>		\$ -
Vital signs, height, weight, vision (Snellen) and body systems with emphasis on neuromuscular and orthopedic systems		\$ -
Comprehensive medical history review		\$ -
Audiometry (hearing) exams		\$ -
<b>Functional Capacity Evaluations to include:</b>		\$ -
Heavy physical demands capacity testing		\$ -
Light physical demands capacity testing		\$ -
Return to work for "fit for duty" exams		\$ -
<b>DOT (Dept. of Transportation) to include:</b>		\$ -
Physical exam per DOT regulations		\$ -
Drug analysis screening with chain of evidence procedures (DOT Test - all inconclusive (includes collection/lab test/MRO)		\$ -
Medical review services for positive DOT drug analysis screening		\$ -
Breath alcohol analysis screening w/chain of evidence procedures		\$ -
DOT qualification - this is a reduced fee if adding DOT medical certification to a pre-placement medical exam		\$ -
<b>NON-DOT Drug and Alcohol to include:</b>		\$ -
Drug analysis screening with chain of evidence prodecures (Non-DOT Test - all inconclusive (includes collection/lab test only)		\$ -
Medical review services for positive non-DOT drug analysis screening		\$ -
Breath alcohol analysis screening with chain of evidence procedures		\$ -
Non-DOT UDS observation fee		\$ -
<b>NIOSH Approved Respiratory Testing:</b>		\$ -
Respirator physical (includes respirator questionnaire)		\$ -
Pulmonary function test (spirometry)		\$ -
Respirator questionniare processing (if mailed in)		\$ -
Respirator fit testing (examinee supplies the mask)		\$ -
Respirator qualification - this should be a reduced fee if adding respirator clearance to a medical exam		\$ -
<b>DPSST F2T Exams to include:</b>		\$ -
Vital signs, height, weight, vision (Snellen) and body systems with emphasis on neuromuscular and orthopedic systems		\$ -
Audiogram		\$ -
Ishihara color test		\$ -
Titmus vision test		\$ -
<b>Additional Services (as needed/requested):</b>		\$ -



SERVICES	Service Offered (X if Yes)	FEE(S)
Vaccination Assessments		\$ -
Hepatitis A vaccination series (2 shot series)		\$ -
Blood draw and lab test for Hepatitis A		\$ -
Hepatitis B vaccination series (3 shot series)		\$ -
Blood draw and lab test for Hepatitis B		\$ -
Hepatitis C Blood draw and lab test		\$ -
Hepatitis A/B Vaccine HEPA-HEPB Adult IM		\$ -
Tetanus vaccine TDAP - includes administration		\$ -
Tuberculosis skin test (PPD)		\$ -
TB test review/X-Ray order by MD		\$ -
Chest X-Ray		\$ -
Blood Lead w/ZPP		\$ -
Asbestos exam		\$ -
B-Reader		\$ -
Maritime exam		\$ -
Flu - Annually		\$ -
MMR - if born 1957 or later		\$ -
Measles/Mumps/Rubella Virus Live SubQ		\$ -
Rubeola Antibody		\$ -
Rubella Antibody		\$ -
Mumps Antibody		\$ -
Varicella Virus Vaccine Live SubQ		\$ -
Varicella Zoster Antibody		\$ -
Tdap - Booster every 10 years		\$ -
Tdap vaccine		\$ -
Venipuncture		\$ -
Quantiferon Gold		\$ -
Physician Lab Review		\$ -
Physician Consult		\$ -
On-Site Services - Professional Fees - MD onsite per hour		\$ -
On-Site Services - Professional Fee - NP onsite per hour		\$ -
On-Site Services - Professional Fee - RN onsite per hour		\$ -
On-Site Services - Professional Fee - MA onsite per hour		\$ -
On-Site Each Additional Hour		\$ -
<b>Other charges that may apply:</b>		
Record review brief		\$ -
Record review extended		\$ -
Exam follow-up brief		\$ -
No show fee		\$ -

**Exhibit B**  
**ADDITIONAL FEDERAL TERMS AND CONDITIONS**

As used herein, “Contractor” means **Providence Health & Services - Oregon**, and “County” means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency (“FEMA”). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating to nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (4s U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a “funding agreement” under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et

seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.

6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers 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.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than E.O. 12549 and 12689. 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 is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and 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, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to 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 agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. DHS Seal, Logo, and Flags: Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. Compliance with Federal Law, Regulations, and Executive Orders: This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. No Obligation by Federal Government: The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. Program Fraud and False or Fraudulent Statements or Related Acts: Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. Procurement of Recovered Materials (Reference 2 CFR 200.322): Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

Byrd Anti-Lobbying Amendment Certification  
for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. 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.
- 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance

with its instructions.

- C. 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 section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

**Aimee L Tinkle** Digitally signed by Aimee L Tinkle  
Date: 2021.11.04 10:00:13 -07'00'

Signature of Contractor's Authorized Official

**Aimee Tinkle, Sr Manager**

Name and Title of Contractor's Authorized Official

**11/04/2021**

Date

**EXHIBIT C  
CONTRACTOR'S PROPOSAL**



# **REQUEST FOR PROPOSAL**

**Clackamas County  
RFP #2021-65  
Medical Screening Services**

**Providence Health & Services – Oregon  
Providence Medical Group  
DBA Providence Occupational Medicine**

**September 24, 2021**





September 24, 2021

Kim Randall  
Clackamas County, Contract Analyst  
Email: [procurement@clackamas.us](mailto:procurement@clackamas.us)

Dear Ms. Randall:

Providence Health & Services Oregon, Providence Medical Group DBA Providence Occupational Medicine is pleased to respond to RFP #2021-65 Medical Screening Services.

We are an experienced, full service Occupational Medicine program successfully serving employers in Oregon for over 30 years. We agree that the services requested by Clackamas County are very important in maintaining a healthy and productive workforce and we would be pleased to continue our partnership with the County. We understand the scope and are able to provide all of the services discussed in the RFP.

The following people able to negotiate in the contracting process:

Aimee Tinkle, Clinic Manager  
(Legal Representative for contractual matters)  
Providence Health & Services  
4400 NE Halsey St, Bldg. 2 4<sup>th</sup> Floor  
Portland, OR 97213  
Phone: 971-369-0823  
Email: [Aimee.Tinkle@providence.org](mailto:Aimee.Tinkle@providence.org)

Laura Cook, Account Manager Occupational Medicine  
Providence Workplace Health Services  
4400 NE Halsey St, Bldg. 1 Suite 245  
Portland, OR 97213  
Phone: 503-215-4854 Fax: 971-712-2184  
Email: [Laura.Cook@providence.org](mailto:Laura.Cook@providence.org)

Thank you for this opportunity to share information with you about Providence Occupational Medicine.

Sincerely,

*Aimee L Tinkle*

Aimee L. Tinkle, Senior Manager Occupational Medicine

*Laura Cook*

Laura Cook, Account Manager, Occupational Medicine

**PROPOSAL CERTIFICATION**  
**RFP #2021-65**

Submitted by: Providence Health & Services Oregon /Providence Medical Group/ DBA Providence Occupational Medicine  
**(Must be entity's full legal name, and State of Formation)**

Each Proposer must read, complete and submit a copy of this Proposal Certification with their Proposal. Failure to do so may result in rejection of the Proposal. By signature on this Proposal Certification, the undersigned certifies that they are authorized to act on behalf of the Proposer and that under penalty of perjury, the undersigned will comply with the following:

**SECTION I. OREGON TAX LAWS:** As required in ORS 279B.110(2)(e), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Proposer is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means the tax laws of the state or a political subdivision of the state, including ORS 305.620 and ORS chapters 316, 317 and 318. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Proposer to 24% backup withholding.

**SECTION II. NON-DISCRIMINATION:** That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

**SECTION III. CONFLICT OF INTEREST:** The undersigned hereby certifies that no elected official, officer, agent or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this RFP, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its elected officials, officers, agents, or employees had induced Proposer to submit this Proposal. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a proposal for the same material, and is in all respects fair and without collusion or fraud.

**SECTION IV. COMPLIANCE WITH SOLICITATION:** The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the RFP (including any attachments); and
2. Are an authorized representative of the Proposer, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the RFP and Proposal; and
4. Will use recyclable products to the maximum extend economically feasible in the performance of the contract work set forth in this RFP.

Name: Aimee L Tinkle Date: 9/16/2021  
Signature: *Aimee L Tinkle* Title: Sr Manager  
Email: aimee.tinkle@providence.org Telephone: 971-369-0823  
Oregon Business Registry Number: 037230-12 OR CCB # (if applicable): \_\_\_\_\_

Business Designation (check one):

Corporation  Partnership  Sole Proprietorship  Non-Profit  Limited Liability Company

Resident Quoter, as defined in ORS 279A.120

Non-Resident Quote. Resident State: \_\_\_\_\_

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## General Background and Qualifications

### Providence Occupational Medicine Overview

Providence Occupational Medicine is part of Providence Health & Services - Oregon, a not-for-profit organization that has served the Northwest since 1856. Providence Occupational Medicine is a multi-clinic program that provides comprehensive occupational health services in the Portland metropolitan area, as well as Medford, Newberg and Hood River. The Providence Occupational Medicine program has served over 13,000 employers in our community since 1988. Many of the employers are state, local and federal government agencies. Our success comes from our commitment on continual improvement and coordination with our employer customers to help keep employees healthy, safe and at work.

### Project Team – Portland Metro Area Clinics

Our entire program has 70+ staff members led by our Medical Director, Andrew Singh, MD our Sr. Manager, Aimee Tinkle and Clinic Manager, Shaderra Stevens. As a team we put customer service, patient care and client care as top objectives.

#### Project Management and Key Personnel

##### Clinic Level:

Sandra Soumokil, Supervisor Occupational Medicine Bridgeport & Newberg– Project Manager  
Colleen Bundy, Supervisor Occupational Medicine Clackamas – Project Manager  
Lindsey Shelton, Supervisor Occupational Medicine Mill Plain & The Plaza – Project Manager  
Mona Ando Cooper, Supervisor Occupational Medicine Tanasbourne - Project Manager

##### Clinical Operations:

Michelle Varner, Supervisor for Call Center (Scheduling Desk) and Business Office  
Shaderra Stevens, Clinic Manager for Providence Occupational Medicine Oregon/SWWA Region  
Aimee Tinkle, Sr. Manager for Providence Occupational Medicine Oregon/SWWA Region  
Shannon Sexton, RN, Nurse Quality Supervisor for Providence Occupational Medicine Oregon/SWWA Region  
Andrew Singh, MD, Occupational Medicine Program Medical Director Oregon/SWWA Region

##### Sales Office:

Laura Cook, Account Manager Occupational Medicine – Account Management  
Michelle Cribbs, Account Executive Providence Sales & Service – Account Management

##### Sandra Soumokil, Supervisor Occupational Medicine Bridgeport and Newberg

Sandra has 17 years of experience working for Providence Occupational Medicine in progressively responsible roles of OH Tech, Medical Assistant, Lead Medical Assistant and Clinic Supervisor. Sandra oversees the day-to-day functions of both Bridgeport and Newberg clinics. Sandra will be available to Clackamas County for inquiries, to resolve issues and to generally ensure a smooth experience for Clackamas County, its candidates, and employees.

Colleen Bundy, Supervisor Occupational Medicine Clackamas

Colleen has 9 years of experience working for Providence in progressively responsible roles of Medical Assistant, Clinical Care Coordinator, Operations Coordinator, and Clinic Supervisor. The last two years have been in our Clackamas clinic as Clinic Supervisor where she oversees the day-to-day functions of that clinic. Colleen will be available to Clackamas County for inquiries, to resolve issues and to generally ensure a smooth experience for Clackamas County, its candidates, and employees.

Lindsey Shelton, Supervisor Occupational Medicine Mill Plain and The Plaza

Lindsey has 22 years of experience working with various disciplines and organizations throughout the northwest region. The last 7 years have been with Providence at different locations in progressively responsible roles of Clinic Care Coordinator, and Clinic Supervisor. Lindsey oversees the day-to-day functions of the Mill Plain and The Plaza clinics. Lindsey will be available to Clackamas County for inquiries, to resolve issues and to generally ensure a smooth experience for Clackamas County, its candidates, and employees.

Mona Ando Cooper, Supervisor Occupational Medicine Tanasbourne

Mona has 23 years of experience working for Providence Occupational Medicine in progressively responsible roles of Medical Assistant, Lead Medical Assistant and Clinic Supervisor. Mona oversees the day-to-day functions of the Tanasbourne clinic. Mona will be available to Clackamas County for inquiries, to resolve issues and to generally ensure a smooth experience for Clackamas County, its candidates and employees.

Michelle Varner, Supervisor Call Center (Scheduling Desk) and Business Office

Michelle oversees the day-to-day functions of our Call Center (Scheduling Desk) as well as our Business Office. Michelle will be available for Clackamas County inquiries, to resolve issues and to generally ensure a smooth experience for Clackamas County, its candidates, and employees.

Shaderra Stevens, Clinic Manager Providence Occupational Medicine Oregon/SWWA Region

Shaderra Stevens brings 20 years of leadership experience. Last 5 years have been with Providence. She was a supervisor with the Women and Children's department for 4 1/2 years then transitioned to occupational medicine where she oversees the day-to-day operations for 7 of our OR/SWWA clinics. Shaderra has a strong background with OR & WA workers compensation rules and regulations.

Aimee Tinkle, Clinic Manager for Providence Occupational Medicine Oregon/SWWA Region

Aimee Tinkle brings 23 years' experience working for Providence Occupational Medicine in progressively responsible roles of Medical Assistant, Lead Medical Assistant, Clinic Supervisor and OR Region Clinic Manager. Aimee possesses a Bachelor of Science in Health Administration, and she holds a Master of Business Administration degree.

Shannon Sexton, BSN, RN Nurse Quality Supervisor for Providence Occupational Medicine Oregon/SWWA Region

Shannon has recently joined the Occupational Medicine team as the Nurse Quality Supervisor. Her focus is on quality improvements, safe care standards, and patient satisfaction. She brings over 30 years of nursing experience in a variety of settings. She has progressed from a Licensed Practical Nurse to a Registered Nurse and holds a Bachelor of Science Degree in Nursing.

Andrew Singh, MD, Medical Director Providence Occupational Medicine Oregon/SWWA Region  
Dr. Singh received his undergraduate degree with High Honors in Chemistry from Wesleyan University in 1993. Completed medical school from St. Louis University in 2000. Obtained MPH (Masters of Public Health) from St. Louis University in 2004. Residency trained in Occupational Medicine, completed 2004. Board Certified in Occupational Medicine. Dr. Singh has 16 years of Occupational Medicine experience in several different states. We are most honored to have him as our Medical Director for Providence Occupational Medicine overseeing all 8 clinics in OR and SWWA since 2018.

Trevor Tash, Occupational Therapist

Trevor has been with Providence Rehabilitation for 15 years. Trevor is responsible for developing the Physical Capacity Testing for Providence Workplace Health Services clients. Some of Trevor's additional job functions include performing Physical Capacity Evaluations: detailed testing of worker's abilities and tolerances for performing work. Assessments are performed for Workers' Compensation assessments, Disability assessments and Attorney requests.

Laura Cook, Account Manager Occupational Medicine

Laura has 20 years' experience in the medical field with 15 of those years working for Providence Occupational Medicine in progressively responsible roles from Client Services to Account Management. Laura's role with Clackamas County will be to manage the account in our system, make any necessary changes/updates, answer questions, serve as a resource, and general work in conjunction with the clinic operations and staff to ensure Clackamas County's satisfaction with our services.

Michelle Cribbs, Account Executive Providence Sales & Service

Michelle earned a BS from Oregon State University in Merchandising and Business. She has over 30 years of sales and client support experience with the last 11 years in medical sales with the last 6 years including occupational medicine. Michelle is passionate about client relationships and is dedicated to customer satisfaction and support. She will serve as a resource and advocate and will work in conjunction with clinic operations and staff to ensure Clackamas County's satisfaction with our services.

**Medical Clinics and Practitioners:**

Providence Occupational Medicine – Bridgeport  
18040 SW Lower Boones Ferry Rd., Suite 100, Tigard, OR 97224  
Monday – Friday 8AM to 5PM

[Providence Occupational Medicine | Bridgeport, Oregon | Providence Oregon](#)

- Husameddin S. El Bakri, MD
- Andrew Singh, MD Board Certified Occupational Medicine (Friday's only)

Providence Occupational Medicine – Clackamas

9290 SE Sunnybrook Blvd., Suite 210, Clackamas, OR 97015

Monday – Friday 7AM to 6PM – no providers available after 5PM

[Providence Occupational Medicine | Clackamas, Oregon | Providence Oregon](#)

- Randolph Cribbs, MD
- Michael Savage, MD
- Jesse Powell, MD
- Joseph Smith, MD, MPH, Board Certified Occupational Medicine
- Kimberly Carihfield, MD
- Kristian Flores, MD

Providence Occupational Medicine – Mill Plain

315 SE Stone Mill Dr., Suite 200, Vancouver, WA 98682

Monday – Friday 8AM to 5PM

[Providence Occupational Medicine - Mill Plain | Vancouver, Washington | Providence Oregon](#)

- Mary Pierce, ANP
- Andy Humes, MD

Providence Occupational Medicine – Tanasbourne

10670 NE Cornell Rd., Suite 204, Hillsboro, OR 97124

Monday – Friday 7AM to 6PM – no providers available after 5PM

[Providence Occupational Medicine - Tanasbourne | Hillsboro, Oregon | Providence Oregon](#)

- Volodymyr Dovhyy, MD
- Yuriko Lee, FNP
- Andrew Singh, MD, Board Certified Occupational Medicine (Wednesday's only)

Providence Occupational Medicine – The Plaza

5050 NE Hoyt St., Suite B48, Portland, OR 97213

Monday – Friday 7AM to 5:30PM

[Providence Occupational Medicine-The Plaza | Providence Oregon](#)

- Crystal Bell, NP
- Andrew Singh, MD Board Certified Occupational Medicine (Monday's only)

\*Providence Occupational Medicine – Newberg

1001 Providence Drive Newberg, OR 97132

Monday – Friday 8AM to 5PM

[Providence Occupational Medicine | Newberg, Oregon | Providence Oregon](#)

- James Cooke, NP

\*Note: PCT's, audiograms and respirator fit testing are not available at the Newberg clinic



## Department Contact Information:

Call Center (Scheduling Desk)

Phone: 503-215-2890 option 4

Email: [orregoms@providence.org](mailto:orregoms@providence.org)

Central Support Team – for medical records (e.g., missing, illegible etc.)

Phone: 503-215-2890 option 3

Email: [orregomcst@providence.org](mailto:orregomcst@providence.org)

Billing Office

Phone: 503-215-2557 – not a manned phone, must leave message

Email: [providenceocchealth@providence.org](mailto:providenceocchealth@providence.org)

**Clinic Staff:** Due to space issues, we are unable to list all clinic, medical assistant, and technician staff members. Our program is blessed to have the following experienced employees working for us. This list does not include medical, management or sales/service staff individually mentioned above.

- Medical Assistants
- Drug/Alcohol Technicians (dedicated position)
- Patient Relations Representatives (Front desk staff; some are trained collectors)

Our staff possesses the necessary training and certifications to perform all services including:

- Occupational Hearing Conservationist basic certification approved for the Council for Accreditation of Occupational Hearing Conservationists (CAOHC).
- Approved pulmonary function testing, National Institute for Occupational Safety and Health (NIOSH).
- Urine Drug Test Collector Training, in accordance with the U.S. Dept. of Transportation Testing Procedures 49 CFR Part 40.
- Breath Alcohol Technician Training, in accordance with the U.S. Dept. of Transportation Testing Procedures 49 CFR Part 40.

### Management Approach

The project managers for each clinic will oversee the clinic support staff, including registrars and medical assistants who assist the clinic providers, providing medical ancillary services, registering patients, and preparing reports for our clients. Our staff receives ongoing education about changes in client specific protocols and medical service protocols.

### Key Personnel

Our key personnel work at all clinic locations with clients as needs arise. The amount of time needed for this project will vary for each team member based on the needs of Clackamas County. Staff works closely together to ensure that business needs are met in the most responsive, cost-effective manner possible. We partner with our clients on an ongoing basis to address changes that might be needed to improve services we deliver. Modifications to protocols are made in a timely manner based on written request from Clackamas County.

## Experience with Similar Projects

Our program works with many governmental agencies and municipalities on similar projects. Many are long standing clients of ten to twenty years, or more, examples are:

City of Portland – (20+ years) - Preplacement, Respirator, Firefighter, Police/DPSST, Fit for Duty, Medical Surveillance Exams, DOT drug screen collections and select general employment drug testing, Physical Capacity Tests and Physical Capacity Test Development

City of Oregon City – (15+ years) – Preplacement, Respirator, Police/DPSST Exams, Fit for Duty, Medical Surveillance Exams, DOT drug screen collections and employment drug testing, Physical Capacity Tests and Physical Capacity Test Development

Washington County – (15+ years) – Preplacement, Respirator, Police/DPSST, Fit for Duty, DOT drug screen collections and general employment drug testing, Physical Capacity Tests and Physical Capacity Test Development.

Tualatin Valley Water District – (20+ years) – Preplacement, Respirator, Fit for Duty Exams, DOT and express/onsite employment drug testing, Physical Capacity Tests.

Providence Occupational Medicine-Oregon strives to be the premier occupational service provider in our service areas throughout Oregon and SW Washington by providing the highest quality services in a timely manner at competitive rates. Our organizations core values of compassion, dignity, justice, excellence, and integrity drive us to exceed expectations at every opportunity. We actively monitor the overall quality and timeliness of services provided and implement quality control processes when improvement opportunities are identified.

Providence Occupational Medicine is obligated by law to protect patient/examinee Protected Health Information (PHI). All medical records will remain the property of Providence Occupational Medicine. Copies of records that can be released will be provided to Clackamas County.

We have established protocols for each type of service or exam type, which includes a list of standard and optional services for each protocol. The database is maintained and updated regularly. We use InDemand Interpreting Services for language translation services for employers who wish to request translation services for exams.

Providence Occupational Medicine provides flexibility in working with our clients to meet their business needs. Our providers, management team and support staff understand the importance of accurate, unbiased, and confidential medical determinations to both the candidate/employee and employer in maintaining a safe workplace and community; and as such our medical determinations are based on sound medical judgment in conjunction with information specific to the exposures faced by Clackamas County employees. (For example, we keep job descriptions/job analyses on file for our medical providers to review as needed. We also offer medical provider tours of your facilities or work locations to ensure their familiarity with the work performed by County employees).

All providers and staff receive ongoing training regarding our program's medical protocols and standard procedures as well as client specific protocols. Monthly staff meetings at each clinic assure consistency of service delivery. The medical assistants are CAOHC certified in audiometry, NIOSH certified in spirometry. They are all certified to provide federally mandated urine drug screens and breath alcohol testing, medical assistants also receive annual competency testing and ongoing training for services they provide.

## Proposer Qualifications

### Summaries of Exam Types for Portland Metro Area Clinics:

### Job Task Analysis and Physical Capacity Test Creation Process

#### DESCRIPTION OF JTA

A JTA is a process to identify and determine in detail the particular job duties and requirements and the relative importance of these duties for a given job. It can be used to define valid and defensible position duties and responsibilities, determine valid entry level job requirements, and determine legitimate medical and/or physical job requirements, amongst other various uses. An important concept of the JTA is that the analysis is conducted of the job, not the person. While JTA data may be collected from incumbents through interviews or questionnaires, the product of the analysis is a description or specifications of the job, not a description of the person.

What aspects of the job are analyzed in a JTA?

- **Duties and Tasks:** The basic unit of a job is the performance of specific tasks and duties. Information to be collected about these items may include: frequency, duration, effort, skill, complexity, equipment, standards, etc.
- **Environment:** This may have a significant impact on the physical requirements to be able to perform a job. The work environment may include unpleasant conditions such as offensive odors and temperature extremes. There may also be definite risks to the incumbent such as chemical contact, restricted spaces, high elevations, noise, vibrations, slippery surfaces, lighting, vision impairments, etc.
- **Tools and Equipment:** Some duties and tasks are performed using specific equipment and tools. Equipment may include personal protective clothing (PPE). These items need to be specified in a JTA.

Other possible applications of a JTA are:

- **Basic Entry Level Requirements:** What knowledge, skills, and abilities are required for prospective candidates?
- **Medical Standards:** Some jobs are of sufficient risk and demand on physical skills, medical standards are necessary. With the addition of a medical professional review of data from the JTA, organizations can maintain and defend job-related medical standard and physical capabilities requirements.
- **Basic Work Requirements:** The fundamental, minimum performance standards for the job.
- **Training Curricula:** Determining valid, job related training content.

## **DESCRIPTION OF PCT**

A PCT is a fifteen-to-thirty-minute evaluation proctored by a Medical Assistant, where these services can be performed (e.g., Bridgeport (Tigard), Clackamas, Tanasbourne (Hillsboro), The Plaza (Portland) and Mill Plain (Vancouver, WA)).

This test includes a series of physical movements designed to test physical strength, range of motion, stamina, and tolerance to functional activities, including lifting and carrying. These tests are custom designed by a professional Occupational or Physical Therapist for a specific job title at a specific employer.

PCTs are only administered following a pre-placement or fit for duty physical examination in which the examining medical provider clears the candidate/employee to participate in the PCT. The PCT helps take the guesswork out of determining if a candidate/employee is physically able to perform a job and helps identify potential ADA issues and/or necessary work restrictions or accommodations.

## **THE JTA/PCT CREATION PROCESS**

### Step 1 Information Gathering:

Employer notifies the Workplace Health Services Account Manager of the need for a new or modified JTA and/or PCT. The Account Manager will provide a questionnaire to employer to be completed by the incumbent or other employee familiar with the job in question. In addition to the completed questionnaire, the employer provides to the Account Manager any existing information on the position such as Job Description, Job Task Analysis, prior/old PCT, etc.

Occasionally an employer will have two or more positions that are very similar. In this case, information on the similar position(s) may be used if little or no information exists on the job in question. The Account Manager will initiate the request for a new JTA/PCT with the OT/PT and will assume the "project lead" role for the Providence employees involved.

The Account Manager will explain the process to the employer, facilitate communication between parties, facilitate scheduling of the onsite visit, meetings, phone conferences (and attend as appropriate), and generally ensure appropriate progress and outcome.

### Step 2 Onsite Observation/Measurements/Interviews:

The Account Manager and/or Account Executive (if available) and OT/PT visits employer to observe the job in progress, take measurements and interview incumbent(s). This process usually takes 1-2 hours. Observation of manufacturing or production positions in which the employee performs the same task repeatedly may be completed in less time.

In the case of the position with varied tasks (especially field positions) it is not feasible to observe all elements of a position within this time frame, nor is it affordable (or necessary) to have additional hours of observation. This challenge is overcome through advanced preparation for the onsite visit, interview of the incumbent(s), and significant review/validation of the JTA/PCT in later steps.

Employers may assist in ensuring a quality result by arranging to have an incumbent demonstrate the tasks he/she performs for the OT/PT. (If one incumbent is not familiar with all elements of the position, two or more incumbents may participate in the

demonstration/interview. If an incumbent is not available, a past worker in that position or current supervisor familiar with the position will suffice).

Demonstration should focus on the most physically difficult tasks the employee performs in a day/week/month, and those tasks resulting in the most employee injuries (if known).

During the onsite visit, the OT/PT may take pictures, will take weights and measurements, and will ask questions regarding the job tasks, frequency, volumes/production quotas, etc. If the incumbent is not able to answer these questions it is important to have a knowledgeable supervisor or other employer representative available.

#### Step 3 Creation of the Job Task Analysis (JTA):

The OT/PT will utilize the information obtained during the onsite visit/interview to create a draft Job Task Analysis. This draft will be sent to the employer for review and input.

#### Step 4 Creation of first and second draft Physical Capacity Test (PCT):

After any necessary revisions of the JTA, the OT/PT creates the PCT, including the minimum standard for a passing result. This draft will be sent to the employer for review and input. (If necessary, a second draft and review/revise process may take place).

#### Step 5 Validation:

The Account Manager will facilitate scheduling of the validation which takes place at a Providence Occupational Medicine clinic.

Participants needed from employer:

- 2 incumbents who are familiar with the job and physically able to take the PCT without injury to themselves.
- 1 supervisor or person with decision making ability.

Validation may occur with only 2 employer participants as long as both are able to take the PCT safely and one of them has decision making ability. (This allows changes to be made during the validation and improves efficiency of the process).

Participants from Providence: OT/PT, Account Manager, Clinic Supervisor/Manager or MA (for training purposes), and the Account Executive (if available).

#### Step 6 Final Document:

The OT/PT will update the PCT to include any changes or modifications agreed upon during the validation. A copy of the final document will be provided to the employer by the Account Manager. Once the client has given final approval on the JTA/PCT the Account Manager will ensure the employer's account is updated to include the new JTA/PCT and documents are appropriately stored in the Occupational Medicine data base.

#### Step 7 Clinic Staff Training:

The Account Manager will work with the Clinic Supervisor/Manager to ensure clinic staff are trained on the new PCT in a timely manner. Once staff training is complete the Account Manager will notify the employer that the process is complete.

## JTA/PCT Timeline

JTA/PCT development and *approximate* timeline:

OT/PT travel time is charged to the employer in the final invoice.

JTA/PCT rewrite:	4 pages or less: 2-4 hours (~1-2 weeks)
JTA/PCT rewrite:	5 pages or more: 4-6 hours (~2-4 weeks)
JTA/PCT new:	6-8 hours (~4-6 weeks)

Most JTA/PCT's can be created and completed for around \$2,400.00 each. This is just an average cost. The total cost of the completed JTA/PCT is dependent upon travel time, the time spent observing, creating and validating the project.

Most JTA/PCT's take ~4-6 weeks from start to finish to complete. Could be longer depending on circumstances.

## Post Offer Medical Examinations/Physical Capacity Test (PCT)

The examining provider reviews both the medical history that has been completed by the candidate and the appropriate job description based on the information that has been supplied by Clackamas County. After review, the provider performs a medical examination. In addition, the candidate may complete a physical capacity test that has been custom developed for jobs with PCT's. When all exams and ancillary services have been completed, the provider reviews the examination and makes a determination on the candidate's ability to perform the essential functions of the job. A report of the findings is then communicated to the appropriate contact at Clackamas County.

Custom Physical Capacity Test development process involves an estimated four to eight hours for the job task analysis and PCT development per job class. The Occupational Therapist visits the worksite to evaluate the job and observe employees performing the job. Physical demands are weighed and measured to develop a representative test for each job class.

## Fitness for Duty / Return to Work Examinations

A Fitness for Duty (FFD) Evaluation is a focused evaluation, performed at the request of the employer. Triggers of a FFD exam can be observed behavior with objective evidence of a problem (e.g., excessive number in errors in job tasks, reduced productivity or frequent injuries or near-misses, other observed health problems on the job etc.).

A Return-to-Work (RTW) Evaluation is a focused evaluation, performed at the request of the employer if the employee is returning to work after an extended absence including work comp injury/illness.

The exam includes review of a medical history form, interview, and examination of a person currently employed by the requesting employer. (The employee may be off work, but a FFD is not performed in a "pre-hire" situation).



The purpose is to determine whether an employee can safely perform his/her essential job functions without endangering him or herself or others and whether or not any work restrictions may be necessary. The purpose is not to diagnose or treat medical/mental health conditions.

The employer will not be given information about any medical conditions identified. Providence Occupational Medicine is unable to fill out and sign ADA or FMLA paperwork. Providence Occupational Medicine does not perform psychological evaluations.

- For a FFD exam the employer must provide a “letter of concern” where it is clearly stated the reason(s) for the evaluation and the specific job functions in question or of concern/interest and the functional job description or job analysis.
  - Once the “letter of concern” for FFD or RTW authorization and job description/analysis is received at the clinic it will be reviewed by the clinic supervisor and/or medical provider to determine if the exam is within the scope of Occupational Medicine.
  - If it is determined that the exam is not within our scope of practice the clinic supervisor will contact the person requesting the exam, to explain why we are unable to perform the service.
- For a RTW exam an authorization form needs to be provided along with a functional job description or job analysis. If the employee has been released to work by his/her treating physician, that work release should be provided at time of exam to avoid potential delays

in the exam process. (If there is no known treatment then the requirement for the work release does not apply). Additional records may be requested if they are needed to make a determination.

- DOT RTW/FFD is an exam to determine if a driver currently meets the FMCSA requirements to drive. An exam authorization from the employer is needed to schedule the appointment; the scope is limited to pass/fail under DOT requirements. If additional records are required, we will follow our normal exam process. A driver cannot be qualified if they are being treated for a current work injury, we recommend providing the work release at the time of the appointment to avoid delays in the exam process.

Further testing (e.g., Physical or Work Capacity Evaluation; Neurological tests, Radiological studies, etc.) may be necessary depending on the specific demands and safety risks of the job and health conditions suspected or identified. There will be additional expense involved if medical record review or additional testing is required.

The employer is ultimately responsible for making the decision whether or not to keep/return the employee to work, with or without accommodations, and they are obligated to follow FMLA, ADA, OSHA and other applicable rules/regulations when making their decisions. We do not fill out ADA/FMLA forms as these should be filled out by the employee’s primary care/treating physician.

## **State and Federal Regulatory Examinations**

The Providence Occupational Medicine clinics provide a variety of State and Federal regulatory exams such as those required by OSHA. Examples are respiratory exams, police exams, firefighter exams, DOT exams, DOE exams, medical surveillance exams and audiometric testing. Examinations are performed in accordance with the established standards. Protocols will be established to reflect the Clackamas County’s individual needs.



## **Department of Transportation Examinations**

The Providence Occupational Medicine providers have complete knowledge and understanding of the Commercial Driver Fitness Determination examination requirements. All of our providers can be found on the National Registry and meet all of the new DOT CME regulation requirements. The examination is completed using the newest long form with the updated Department of Transportation requirements and driver certificates. We provide DOT new hire exams, DOT recertification exams, and DOT fitness for duty exams. DOT qualifications if requested with post offer physicals are offered at a lower rate than performing the exam alone.

## **Department of Transportation (DOT) & Non-DOT Post Offer Drug Testing**

Providence Occupational Medicine offers both DOT and non-DOT drug screen services for pre-placement as well as post-accident, random, reasonable suspicion and for cause reasons.

We have established our own account with a reputable drug testing laboratory which allows employers without an existing laboratory relationship to access our volume pricing and avoid complicated laboratory account set up. We use Alere/Escreen for our laboratory-based testing. We offer 11 different non-DOT lab-based drug test panels, and the DOT panel. The drugs in each non-DOT panel vary. Our drug panel list is available upon request.

Please note: Providence Occupational Medicine is not a Consortium/Third Party Administrator (C/TPA). We do not oversee/manage random DOT pools.

When using our house account, all drug screen results are sent to the Medical Review Officer (MRO). If the results are negative, the MRO will “rubberstamp” the results and report out. If positive, the MRO will contact the donor to discuss the positive, obtain prescription information and will contact the necessary pharmacies to verify prescriptions. If there are verifiable prescriptions, then the positive will become a negative. If there are no verifiable prescriptions, then the positive will stand. As marijuana (THC) is still illegal at the Federal level, any THC positives will remain as positive. THC results do not change because of decriminalization in certain states.

Typical turnaround for laboratory-based drug screens is around 2-3 days. It is possible for results come back next business day however, we do not guarantee it. The turnaround time can be longer than 3 days if the results are positive and the MRO is trying to reach the donor to discuss the positive(s).

Reporting of the drug screen results comes directly from the lab. They can send to a fax machine or send email notification to the primary person on the account, that a result is ready then you just log into the lab system to retrieve it.

All Providence Occupational Medicine collection site facilities adhere to DOT specifications and all DOT urine drug screen collection are performed in accordance with federal regulations. Non-DOT drug screen collections are also performed in accordance with federal regulations however Clackamas County may specify certain situations in which we are to deviate from the DOT standards (e.g., employers often do not want to perform observed collections for non-DOT tests and will opt for a monitored or standard collection instead).

As with our collection-only services, DOT and non-DOT drug tests are available on a walk-in basis at all our occupational medicine clinics.

#### **DOT & Non-DOT Breath Alcohol Test (BAT)**

Breath alcohol testing is available at all occupational medicine clinics on a walk-in basis. We have certified breath alcohol technicians on staff within our clinics all of whom are DOT certified in accordance with the U.S. Department of Transportation Testing Procedures 43 CFR Part 40.

### **Respirator Examinations**

Providence has created a respiratory protection program in accordance with OSHA 1910.134. Annual respirator exams are not required by OSHA guidelines, but a periodic or exit evaluation can be elected by the Clackamas County for those employees who are required to wear respirators.

We can provide review of the OSHA respirator questionnaire as a stand-alone service to determine physical qualification to wear a respirator, with a post offer exam or we can provide the exam as a stand-alone service. We can provide respirator fit testing at the County's request with or without an exam. Fit testing is available at all 5 Portland area clinics depending on your make/model of the masks used. Respirator exams, spirometry and fit testing can be performed onsite for groups of 10 or more. Pricing varies and additional charges apply.

### **DPSST F-2T Exams**

Telecommunicators and Emergency Medical Dispatchers are also conducted based on the Department of Public Safety Standards and Training (DPSST) medical exam (form F-2T). This exam for Clackamas County would include a physical exam with history review, audiogram and necessary vision screening. Optional services such as drug screening could be added to this exam.

### **Audiometry Testing**

We are available to perform baseline audiograms or audiograms with hearing conservation reporting. We can perform baseline audiograms, annual audiograms and threshold shift retests to determine if the threshold shift is work related and recordable. This information can be sent to

the hearing conservation contractor and/or the appropriate person with the County. Please note: the Newberg clinic does not offer audiogram services.

### **Immunizations / Vaccine Assessments**

Vaccination offerings vary by clinic. Some of what we offer are TB screenings, as well as QuantiFERON Gold, MMR vaccinations, Varicella, Hepatitis B and influenza (when seasonally available), Tetanus and TDAP.

Vaccine Assessments are available when the candidate/employee is unsure of where they are with their vaccine history. They would schedule an appointment, bring with them all of their vaccine records for the provider to review and determine next course of action with the vaccines (e.g., either titer testing or boosters).

Onsite immunizations and vaccine assessments can be performed onsite for groups of 10 or more. Pricing varies and additional charges apply.

## Clockwise MD

Providence Occupational Medicine utilizes a program called Clockwise MD, which allows the candidate/employee to “*get their place in line*” for drug/alcohol testing as well as audiograms, immunizations/vaccinations, and respirator fit testing. This program is not for scheduled exams that require a medical provider.

Clockwise MD allows a person to “get their place in line” ahead of people that just walk-in for services. The candidate/employee can Google the clinic that they want to go to (links below):

[Providence Occupational Medicine-The Plaza | Providence Oregon](#)  
[Providence Occupational Medicine | Bridgeport, Oregon | Providence Oregon](#)  
[Providence Occupational Medicine | Clackamas, Oregon | Providence Oregon](#)  
[Providence Occupational Medicine - Mill Plain | Vancouver, Washington | Providence Oregon](#)  
[Providence Occupational Medicine - Tanasbourne | Hillsboro, Oregon | Providence Oregon](#)  
[Providence Occupational Medicine | Newberg, Oregon | Providence Oregon](#)

On the landing page is a widget that shows the current wait time for that clinic for walk-in services. Clockwise MD provides an estimated wait based on how many people are in the clinic at the time the individual wants to come in. The wait time will update as the line changes.

Just click on Reserve My Spot, fill in some information and the system will text the individual when it is time to head into the clinic. Then they just check in at the kiosk upon arrival. It isn't mandatory that it be used but it is highly effective for keeping the worker at work and working vs. sitting in the waiting room waiting to be seen.

## Project Approach and Understanding

### Knowledge of Occupational Health Related Regulations

Our providers have complete and current knowledge of OSHA regulations and standards, National Fire Protection Association guidelines, Department of Public Safety Standards and Training and Department of Transportation regulations among others. They stay current with standards and practices through State and Federal publications and various continuing medical education events. If new testing criteria are established for Occupational Medicine regulations, we will present it to the County.

### Work Plan

A scheduler will set up appointments for services generally within 24 to 48 hours of scheduling based on established protocols. Team members will be assigned to conduct the exams in a timely manner. We work in conjunction with Clackamas County and review work processes to ensure the best practices are followed to meet your occupational medicine needs staying in compliance with current regulations.

We have developed an efficient yet comprehensive post offer evaluation. The physical examination which includes detailed work and medical history questionnaires that are reviewed by the medical provider and discusses with the examinee, as well as a comprehensive physical examination. Each examination begins with standard components which are expanded by the medical provider as necessary, depending on the examinee's medical history and the physical nature of the job in question.

In general, this is our process:

- When an appointment is desired, a representative from Clackamas County or the candidate/employee (hereafter referred to as “examinee”) contacts our Central Scheduling Desk to arrange an appointment at a desired clinic location.
- Upon arrival at our clinic, the examinee is registered by our front desk staff, including completion of any required forms.
- After registration, the examinee is then escorted to our back office where any necessary ancillary services are performed by our certified Medical Assistants or Technicians (e.g., height, weight, blood pressure, vision screens, hearing tests, lung function tests, drug screenings etc.).
- After the ancillary services are complete and recorded, the examinee is escorted to an examination room where the remainder of the services are performed by a qualified medical provider.
- If the medical exam requires a physical capacity test (PCT), then after the medical exam with the provider, the MA will then take the examinee to the PCT room and proctor that portion of the exam. The findings are then presented back to the medical provider for completion of the medical report. The PCT is always performed after the medical exam with the provider who gives clearance for the MA to proceed or not.
- Upon completion of the appointment our front desk staff will assist the examinee in “checking out”.

Following completion of the post offer examination, we then will provide a one-page report to Clackamas County which indicates the examinee is either cleared to perform the job without restriction/accommodations, identifies limitations/accommodation, or that further evaluation is necessary, such as additional testing, or review of requested medical records. DPSST F2T exam results will be reported out in its entirety on the F-2T form or the F2Ta if instructed.

No protected health information is included in the report provided to Clackamas County. Examinees are not provided a copy of the report, nor given information about the results unless special instructions to do so are provided by Clackamas County.

The post offer evaluation is usually completed in one visit. Occasionally, based on a specific examinee’s history, additional medical information may be needed. Our staff will obtain the necessary release from the examinee and request records. The records are automatically reviewed within one to two business days of receipt and a final report of findings issued. Once the examination has been completed, the records are processed, and appropriate reports are sent to the identified Clackamas County contact. The reporting process is completed within 24 to 48 hours of the examination or when lab and ancillary results are available.

Our new electronic medical record system (SYSTOC) will allow authorized County employees 24/7 access to our system, which will allow you to pull your own medical exam results as well as invoices. The system will send an email when results are ready, then just log into the system to retrieve them.

Our email settings in SYSTOC use an SSL (Secure Sockets Layer) setting on outgoing emails which encrypts the email for sending off of the secure site. It is encrypted but does not require the extra security step of setting up an individual log in as the message does not stay stored on a server. There is a contract that Clackamas County would need to sign prior to getting access

to the portal. Advanced set up and a brief training are necessary before gaining access to the system.

Providers and staff are available to answer questions that Clackamas County may have regarding the examinations. Protocols can be adjusted at Clackamas County's request based on job classification or job duty changes or updates in regulatory requirements.

## Client References

### C-Tran

#### Clark County Public Transit

Contact: Brenda Hamilton

Title: HR Programs Manager

Address: 10600 NE 51st Circle Vancouver, WA 98682

Phone: 360.906.7457

Email: [brenda.hamilton@c-tran.org](mailto:brenda.hamilton@c-tran.org)

Type of work performed: Audiograms, DOT medical exams, Expanded Physical, Fit for Duty/Return to Work exams, Immunizations/Vaccinations, Respirator services, Prescription & OTC Medication Consults, DOT drug/alcohol testing, and Work Comp Injury Care

### Tualatin Valley Water District

Contact: Mike Jacobs

Title: Health and Safety

Address: 1850 SW 170<sup>th</sup> Beaverton, OR 97006

Phone: 503- 848-3048

Email: [mikej@tvwd.org](mailto:mikej@tvwd.org)

Type of work performed: DOT Exams, Pre-placement Exams, Physical Capacities Testing, Respirator Exams, Audiograms, and Drug/Alcohol Screening

### Metro

Contact: Mike Amodeo

Title: Environmental Health & Safety

Address: 600 NE Grand Ave Portland, OR 97232

Phone: 503-797-1937

Email: [mike.amodeo@oregonmetro.gov](mailto:mike.amodeo@oregonmetro.gov)

Type of work performed: Pre-placement, Respirator, Fit for Duty Exams, DOT drug/alcohol screen collections and employment drug testing, Physical Capacity Tests, Physical Capacity Test Development and Workers Compensation Injury Care

SERVICES	Service Offered (X if Yes)	FEE(S)
<b>Job Analyses/Physical Capacity Test Creations:</b>	x	\$300.00 per hour
Identify and document job tasks and physical demands	x	Included
Develop tests to measure	x	Included
Validate tests	x	Included
Implement tests	x	Included
<b>Pre-Placement Exams to include:</b>	x	\$85.00
Vital signs, height, weight, vision (Snellen) and body systems with emphasis on neuromuscular and orthopedic systems	x	Included
Comprehensive medical history review	x	Included
Audiometry (hearing) exams - baseline	x	\$25.00
<b>Functional Capacity Evaluations to include:</b>	x	
Heavy physical demands capacity testing	x	\$85.00
Light physical demands capacity testing	x	\$63.00
Return to Work Exams	x	\$125.00
Fitness for Duty Exams	x	\$150.00
<b>DOT (Dept. of Transportation) to include:</b>	x	
Physical exam per DOT regulations	x	\$95.00
Drug analysis screening with chain of evidence procedures (DOT Test - all inconclusive (includes collection/lab test/MRO)	x	\$58.00
Medical review services for positive DOT drug analysis screening	x	Included
Breath alcohol analysis screening w/chain of evidence procedures	x	\$30.00
DOT qualification - this is a reduced fee if adding DOT medical certification to a pre-placement medical exam	x	\$25.00
<b>NON-DOT Drug and Alcohol to include:</b>	x	
Drug analysis screening with chain of evidence prodecures (Non-DOT Test - all inconclusive (includes collection/lab test only)	x	\$37.00
Medical review services for positive non-DOT drug analysis screening	x	Included
Breath alcohol analysis screening with chain of evidence procedures	x	\$30.00
Non-DOT drug screen collections (CCSO only)	x	\$19.00
Non-DOT UDS observation fee	x	\$20.00
<b>NIOSH Approved Respiratory Testing:</b>	x	
Respirator physical (includes respirator questionnaire)	x	\$65.00
Respirator physical (includes respirator questionnaire) onsite	x	\$75.00
Pulmonary function test (spirometry)	x	\$36.00
Pulmonary function test (spirometry) onsite	x	\$40.00
Respirator questionniare processing (if mailed in)	x	\$25.00
Respirator fit testing (examinee supplies the mask)	x	\$40.00 per mask type
Respirator fit testing onsite (examinee supplies the mask)	x	\$47.00 per mask type
Respirator qualification - this should be a reduced fee if adding respirator clearance to a medical exam	x	\$25.00
<b>DPSST F2T Exams to include:</b>	x	\$85.00
Vital signs, height, weight, vision (Snellen) and body systems with emphasis on neuromuscular and orthopedic systems	x	Included

SERVICES	Service Offered (X if Yes)	FEE(S)
Audiogram	x	\$25.00
Ishihara color test	x	\$10.00
Titmus vision test	x	\$25.00
<b>Additional Services (as needed/requested):</b>		
Vaccination Assessments	x	\$50.00
Hepatitis A vaccination series (2 shot series)	x	\$88.00 ea
Hepatitis A vaccination series (2 shot series) onsite	x	\$95.00 ea
Blood draw and lab test for Hepatitis A		there is no blood draw and titer test for Hepatitis A
Hepatitis B vaccination series (3 shot series)	x	\$61.00 ea
Hepatitis B vaccination series (3 shot series) onsite	x	\$89.00
Blood draw and lab test for Hepatitis B	x	\$47.00
Blood draw and lab test for Hepatitis B onsite	x	\$47.00
Hepatitis C Blood draw and lab test	x	\$62.00
HIV Antibody Test 4th Generation - Source Testing	x	\$55.00
Hepatitis B Surface Antigen - Source Testing	x	\$45.00
Hepatitis A/B Vaccine HEPA-HEPB Adult IM (3 shot series)	x	\$145.00 ea
Tetanus vaccine TDAP - includes administration	x	\$87.00
Tuberculosis skin test (PPD)	x	\$29.00
Tuberculosis skin test (PPD) onsite	x	\$37.00
TB test review/X-Ray order by MD		\$ -
Chest X-Ray 1-view	x	\$95.00
Chest X-Ray 2-view	x	\$125.00
Blood Lead w/ZPP	x	\$57.00
Asbestos exam	x	\$100.00
B-Reader	x	\$70.00
Maritime exam	x	\$95.00
Flu - Annually	x	\$27.00
MMR - if born 1957 or later		\$ -
Measles/Mumps/Rubella Virus Live SubQ	x	\$85.00
Measles/Mumps/Rubella Virus Live SubQ onsite	x	\$95.00
Rubeola Antibody	x	\$56.00
Rubeola Antibody onsite	x	\$56.00
Rubella Antibody	x	\$64.00
Rubella Antibody onsite	x	\$64.00
Mumps Antibody	x	\$59.00
Mumps Antibody onsite	x	\$59.00
Varicella Virus Vaccine Live SubQ (2 shot series)	x	\$136.00 ea
Varicella Virus Vaccine Live SubQ (2 shot series) onsite	x	\$136.00 ea
Varicella Zoster Antibody	x	\$62.00
Varicella Zoster Antibody onsite	x	\$62.00
Tdap - Booster every 10 years		\$ -
Tdap vaccine	x	\$87.00
Venipuncture	x	\$15.00
Quantiferon Gold	x	\$49.00
Physician Lab Review	x	\$25.00
Physician Consult	x	\$55.00
On-Site Services - Professional Fee - MD onsite per hour	x	\$300.00



SERVICES	Service Offered (X if Yes)	FEE(S)
On-Site Services - Professional Fee - NP onsite per hour	x	\$90.00
On-Site Services - Professional Fee - RN onsite per hour	x	\$76.00
On-Site Services - Professional Fee - MA onsite per hour	x	\$45.00
On-Site Each Additional Hour	x	\$45.00
Mileage Per Mile	x	\$1.00
<b>Other charges that may apply:</b>		
Record review brief		\$25.00
Record review extended		\$50.00
Exam follow-up brief		\$55.00
No show fee		Price is equivalent to the cost of the exam

**EXHIBIT D**  
**DATA ACCESS ORGANIZATION TO ORGANIZATION AGREEMENT**  
**(Electronic Access to Records)**

**Data Access Organization to Organization Agreement**  
*Providence Disclosure of Employee Information via Electronic Access*

<b>Providence Access Support Team for Reporting Issues or Requesting Assistance</b>	Michelle Varner, SYSTOC IS Liaison
<b>Email Address</b>	michelle.varner@providence.org

<b>Providence Business Liaison/Primary Contact</b>	Laura Cook, Account Manager Occupational Medicine
<b>Email Address</b>	laura.cook@providence.org
<b>Fax Number</b>	971-712-2184

<b>Disclosing Employee Data to the listed Organization (“Client”)</b>	Clackamas County
<b>Organization Location Name (if different than above)</b>	Clackamas County
<b>Street Address</b>	
<b>City</b>	
<b>State, Zip</b>	
<b>Phone Number</b>	

<b>Organization Business Contact - Primary</b>	
<b>Email Address</b>	
<b>Phone Number</b>	
<b>Organization Business Contact – Secondary</b>	
<b>Email Address</b>	
<b>Phone Number</b>	

The purpose of this Data Access (Org2Org) Agreement is to establish an understanding between Providence and \_\_\_\_\_ [Client] regarding the expectations of the parties which will govern the relationship between Providence and Client pursuant to which Providence will grant Access to certain electronic information to Client.

**RECITALS**

WHEREAS, the parties believe that granting Client electronic Access to information systems owned or operated by Providence for Client’s Users (as defined in Section II) to have timely and accurate employee health information from Providence’s system for the sole purpose of viewing data for its employees as permitted by law.

WHEREAS, some or all information to be disclosed is required by law to be protected against unauthorized use, disclosure, modification, or loss. To comply with applicable legal requirements for the protection of information, the parties agree to the terms herein.

## **Data Access Organization to Organization Agreement**

*Providence Disclosure of Employee Information via Electronic Access*

### **AGREEMENT**

#### **1. Purpose**

Providence agrees to provide electronic access to electronic information systems owned or operated by Providence (“Systems”) to authorized Users (as defined in Section II). Client shall ensure that all use of Systems shall be exclusively for viewing of employee data as permitted by law. Providence makes the Systems available to Users to provide view-only access to applicable Pure OHS data, such as patient-specific injury, treatment, and drug-screen information as permitted by law. Access to the Systems is intended solely for these purposes. Any other use or any attempt to use the Systems for commercial purposes or other purposes is strictly prohibited. Client understands that electronic access to the Systems is a privilege offered at the sole discretion of Providence. **Client understands and acknowledges that Providence may withhold or terminate User Access at any time for any reason.** Providence makes no implied or explicit commitment that the connection will work at any time in the future, due to unforeseen system or network downtimes.

#### **2. Definitions**

“Workforce” means Client’s employees, contractors, volunteers, trainees, agents, and other persons who perform work for or on behalf of Client.

“User” means an individual Client Workforce member.

“Access” means the permissions granted to the User is based on their need to know and job responsibilities.

#### **3. Term**

This Agreement shall be effective as of the date that the Client signs, and shall continue subject to the termination provisions hereof. This Agreement may be terminated without penalty by either party at any time or will automatically terminate if no Users have Access.

#### **4. Costs and Expenses**

Each party agrees to be individually responsible for the costs and expense of maintaining appropriate security and privacy controls relating to their information system(s). Client is responsible for the cost of the appropriate hardware and software to access Providence systems or data. This includes, but is not limited to, initial purchase, upgrade, and ongoing support.

#### **5. Relationship of Parties**

This Agreement will not be construed to create a partnership, joint venture, or employment relationship among the parties or their employees or agents.

#### **6. No Discrimination.**

The Client is further expressly prohibited from using the Systems in any manner that discriminates against persons on the basis of their race, color, religion, age, national origin, ancestry, gender, sexual orientation, disability, veteran status, financial status, or ability to pay, or participation in government- funded health care programs.

## **Data Access Organization to Organization Agreement**

*Providence Disclosure of Employee Information via Electronic Access*

### **7. Legal Compliance.**

The parties will comply with all federal and/or state laws, ordinances and regulations with respect to its performance under this Agreement. The parties agree that nothing in this Agreement constitutes, or is intended to constitute, an inducement by Providence for Client to refer patients to Providence facilities or personnel, or to recommend or arrange for patients to receive items or services from Providence facilities or personnel. The parties agree to comply with all applicable laws and regulations relative to this Agreement, including without limitation Federal Anti-Kickback Statute (42 U.S.C. Sec. 1320a-7(b) (the "Anti-Kickback Statute") and the Physician Self-Referral Law (42 U.S.C. Sec. 1395nn) (also referred to as the "Stark Law"). The parties agree that the Client's access to the Systems does not constitute the provision of remuneration or any other thing of value to the Client, and that the Client has no legally cognizable interest in this Agreement or continued access to the Systems.

### **8. Data Ownership**

Access to Systems or data does not in any way create an ownership right in Systems or data to Client or User. The data available on the Systems remains the property of its owner. Once the data on the Systems has been downloaded, printed or otherwise reproduced by Users for payment or other lawful purpose, the data shall be the responsibility of Client and shall be treated according to Client's policies. Data that is contained within the Systems will be available for the support of patients in compliance with HIPAA, ARRA/HITECH, state and federal privacy standards. Providence does not warrant or represent the truth, accuracy or completeness of any information provided to the Client pursuant to this Agreement.

### **9. Security and Privacy Obligations**

A. Client shall assign the above Client Business Contact/Authority as responsible for managing the authorized Users on behalf of Client.

B. Users may only access information contained in the Systems for the purpose of viewing Pure OHS data, such as patient-specific injury, treatment, and drug-screen information, or other lawful reason.

C. Client agrees to reasonably assist Providence in enforcing appropriate security and privacy controls governing the Systems and the information contained therein to which Users are granted Access as described herein.

D. Users shall not make any change to any information in the Systems.

E. Client shall ensure all its Users comply with applicable Providence policies. Access will not be granted until each User completes the required forms.

F. Access to Systems will be granted according to Providence policies and procedures, and shall comply with applicable federal and state laws, including but not limited to HIPAA or ARRA/HITECH. Each User shall be responsible for his/her login and password and shall not share his/her login and password with anyone else. Client will maintain firewall protection on all Internet connections for computers or devices located at Client's locations.

G. Client will ensure the use of updated versions of commercially reasonable anti-virus protection on all computers or devices that are used to access Systems. Client agrees to keep its computers and devices updated with commercially reasonable operating system patches and to use and maintain firewall protection. Client agrees that when

## **Data Access Organization to Organization Agreement**

*Providence Disclosure of Employee Information via Electronic Access*

and while remotely connecting to Systems, it is subject to Providence rules and policies governing privacy and security as provided by Providence.

H. Providence reserves the right to monitor, log, review, and/or audit all data access and use of Systems. Providence, in its sole determination, may act against any unauthorized use or access to Systems, including but not limited to termination of Client or User Access, or immediate termination of this Agreement.

I. **Client agrees to notify the above identified Providence Access Support Team the same business day** if a User has experienced a separation/termination from Client so that account Access may be terminated immediately.

J. **Client agrees to notify the above identified Providence Access Support Team the same business day** for any changes in Access, but in no event will notice be longer than five (5) days after any changes in roles or job function of a User.

K. **Client agrees to notify the above identified Providence Access Support Team the same business day** if there is any change of personnel for the above designated Client Business Contact/Authority, but in no event will notice be longer than five (5) days after any changes in roles or job function.

L. Client will direct Users to contact the above identified Providence Access Support Team for issues specifically related to failure to access or issues with the application to which they have been granted Access. Client is responsible for the maintenance and repairs to their own devices, computer systems or network connections, including the connection to Providence.

M. Client will respond to Providence periodic User account reviews within five (5) business days.

N. Providence may disable User accounts that are inactive for 90 days or longer without notice to Client. In these situations, Client shall contact the above identified Providence Business Liaison/Primary Contact to request that Access be reactivated.

O. Client will ensure that Users do not share login and password information with other individuals. Client will ensure that Users do not permit login and password to be automatically saved on any computers or devices. Sharing of login and/or password information or permitting such to be automatically saved may result in termination of Access.

P. Users will only be granted Access if they are a member of Client's Workforce and the forms required by Providence have been fully executed.

Q. Client will ensure Users only access minimum necessary information for which they have a legitimate reason and are authorized by law to access.

R. **Client shall notify Providence within twenty-four business hours** of having such knowledge of any unauthorized Access.

### **10. Compliance with Laws and Governing Law**

The sole jurisdiction for any legal proceedings under this Agreement shall be Oregon.

## **Data Access Organization to Organization Agreement**

*Providence Disclosure of Employee Information via Electronic Access*

### **11. Confidentiality**

The parties agree that all information communicated to it with respect to the Pure OHS data is confidential and agree not to disclose any such confidential information to any other person unless specifically authorized in writing by the other party or to the extent authorized under applicable law. The parties shall use their best efforts to prevent any disclosure of any confidential information to any third party and shall instruct all personnel under its management and control to maintain the confidentiality of the data.

### **12. Indemnification**

Each of the parties agrees to be liable for its own conduct and that of its employees and agents, while acting within the course and scope of their employment or engagement, and to indemnify the other party against all losses therefore arising from or in connection with this Agreement. If loss or damage results from the conduct of more than one party, each party agrees to be responsible for its own proportionate share of the claimant's total damages under the laws of the State of Oregon. Neither party will be considered the agent of the other nor neither party assumes any responsibility to the other party for the consequences of any act or omission of any person, firm, or corporation not a party to this Agreement. Client's indemnification obligations under this Section 12 are subject to the limits of the Oregon Constitution and the Oregon Tort Claim Act.

### **13. Entire Agreement, Assignment, and Amendment**

This Agreement constitutes the entire agreement between the parties about Client's Access to Providence's Systems, and supersedes all prior oral or written agreements, commitments, or understandings concerning the matters provided for herein. This Agreement may not be assigned without the written consent of the other party. This Agreement may be modified only in writing and executed by the parties. All rights are granted to Client are expressed herein; no other rights are granted as part of this Agreement.

### **14. Severability**

Should any part or portion of this Agreement be found invalid, the balance of the provisions shall remain unaffected and shall be enforceable.

### **15. Non-Waiver**

Neither the waiver by Providence of a breach of or a default under any of the provisions of this Agreement, nor the failure of Providence, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, will thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder.



**Data Access Organization to Organization Agreement**  
*Providence Disclosure of Employee Information via Electronic Access*

**16. Signatory Authority**

By signing below, the parties agree to the terms of this Agreement and represent they have the authority to bind the entity on behalf of which it is signing. For purposes of this Agreement, facsimile or electronic copies of signatures shall be deemed to be original signatures.

Providence St. Joseph Health Organization Initiating Agreement		Client	
Providence:	Providence Occupational Medicine	Client Legal Name:	
Printed Name:	Aimee L. Tinkle	Printed Name:	
Title:	Senior Manager	Title:	
Signature:	<i>Aimee L Tinkle</i>	Signature:	
Date:	October 28, 2021	Date:	

**Please scan/email or fax back to the Account Manager listed on page 1.**



11/24/2021

Board of County Commissioners  
Clackamas County  
Board of North Clackamas Parks and Recreation District

Members of the Board:

**Approval of an Intergovernmental Agreement Between:  
The City of Milwaukie and North Clackamas Parks and Recreation District  
for Grant Administration, Construction, and Operation of Phase III of Milwaukie Bay Park**

<b>Purpose/Outcome</b>	Establish roles and responsibilities between the City and NCPRD for grant administration, construction, and operation of Phase III of Milwaukie Bay Park.
<b>Dollar Amount and Fiscal Impact</b>	\$32,000 annually estimated from NCPRD's operating budget for maintenance of new improvements after the park is constructed. No County General Funds are involved. (Details related to funding for indirect and direct costs of construction are under separate IGA.)
<b>Funding Source</b>	NCPRD General Fund
<b>Duration</b>	In effect until terminated or superseded.
<b>Previous Board Action/Review</b>	<ul style="list-style-type: none"> <li>• June 28, 2018 Business Meeting: Board approved professional services contract between NCPRD and 2.ink Studio for Milwaukie Bay Park Final Design Services.</li> <li>• 2019-2021 Board approvals: grant submittals, grant agreement, IGA with City of Milwaukie to transfer City funds to NCPRD for project, contract for Owner's Representative Services, and authorization to obtain a Construction Manager/General Contractor.</li> <li>• 2017-2021 Board Updates (5)</li> </ul>
<b>Strategic Plan Alignment</b>	<p><b>1. How does this item align with your department's Strategic Business Plan goals?</b></p> <ul style="list-style-type: none"> <li>• Aligns with the NCPRD Asset Development Strategic result of completing 33% of NCPRD project phases in the annual Capital Improvement Plan</li> <li>• Supports the purpose of the Asset Development program by providing planning and development services to NCPRD residents</li> <li>• Supports the purpose of NCPRD overall by providing access to parks, natural areas, trails, recreation services and facilities</li> </ul> <p><b>2. How does this item align with the County's Performance Clackamas goals?</b></p>

	<ul style="list-style-type: none"> <li>• <i>Honor, Utilize, Promote, and Invest in our Natural Resources</i> by creating increased tree canopy, increased natural areas, better on-site stormwater utilization, increased floodplain resilience.</li> <li>• <i>Build a Strong Infrastructure</i> through improved recreation infrastructure, active transportation corridor and safe access public transportation, and improved stormwater management.</li> <li>• <i>Build Public Trust through Good Government</i> by design with inclusive engagement and partnership building to leverage funding.</li> <li>• <i>Grow a Vibrant Economy</i> by increasing visitation in the area and attracting more people to the surrounding retail and commercial areas within Clackamas County.</li> </ul>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. 10/7/2021</li> <li>2. JM</li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. No</li> </ol>
<b>Contact Person</b>	<p>Michael Bork, NCPRD Director, x4421</p> <p>Heather Koch, NCPRD Acting Planning &amp; Development Manager, x4358</p>

## SUMMARY

The Intergovernmental Agreement (IGA) establishes the roles and responsibilities between the City of Milwaukie (City) and the North Clackamas Parks and Recreation District (NCPRD) for grant administration, construction and operation of Phase III of Milwaukie Bay Park. The agreement is constructed to be similar to the most recent park development project agreement with the City for Wichita Park (2017). A termination clause protects both parties by ensuring that, if terminated, the terminating party would pay a prorated portion of the other party's development costs. Members of the NCPRD Board, City Council and respective legal staff and administrators negotiated this agreement.

On November 2, 2021, the City Council introduced and adopted Council Resolution 56-2021 to authorize the City Manager to execute the agreement.

An upcoming update to the 2020 Funding IGA between the City and NCPRD for the Milwaukie Bay Park Project will update funding commitments needed to construct the project. The current estimated Total Project Cost is \$9.6 million including construction costs, design costs and indirect costs.

## BACKGROUND

NCPRD partnered with the City of Milwaukie in 2018-19 to develop a final design to complete Milwaukie Bay Park as a District-wide recreational waterfront. The design transforms 3.6 acres of underutilized and predominantly undeveloped land into places to play, rest and gather. Key features include: an amphitheater, nature play area, interactive water feature, plaza with picnic terrace, a permanent alignment for the regional Trolley Trail, pathways, natural areas, public art and restrooms. NCPRD engaged a broad and diverse range of over 1,300 community members in the District during the design phase, advanced a funding strategy to leverage local, regional, state and other funds, and developed a process to build a preconstruction and construction services team in FY20-21.

The park is identified as a high priority need in the 2004 NCPRD Master Plan and 2007 NCPRD Parks and Recreation System Development Charges (SDC) Update Methodology Report and Capital Improvement Plan. The City owns the park and NCPRD plans for, develops and manages the City's parks under a Cooperative IGA. The Cooperative IGA was created as part of the formation of the District in 1990, and last amended in 2020 to reflect the adoption of new bylaws for the District Advisory Committee (DAC).

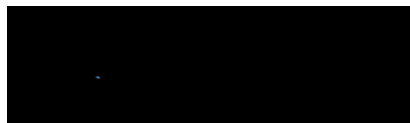
**RECOMMENDATION:**

Staff respectfully recommends that the Board of County Commissioners, acting as the NCPRD Board of Directors, approve this Intergovernmental Agreement Between: The City of Milwaukie and North Clackamas Parks and Recreation District for Grant Administration, Construction, and Operation of Phase III of Milwaukie Bay Park.

**ATTACHMENTS:**

1. Intergovernmental Agreement Between: The City of Milwaukie and North Clackamas Parks and Recreation District for Grant Administration, Construction, and Operation of Phase III of Milwaukie Bay Park
2. Council Resolution 56-2021

Respectfully submitted,



Michael Bork, Director  
North Clackamas Parks and Recreation District

**INTERGOVERNMENTAL AGREEMENT BETWEEN:  
THE CITY OF MILWAUKIE AND  
THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT  
FOR GRANT ADMINISTRATION, CONSTRUCTION, AND OPERATION OF PHASE III  
OF MILWAUKIE BAY PARK**

THIS AGREEMENT (this “Agreement”) is entered into and between North Clackamas Parks and Recreation District (“NCPRD” or the “District”), a county service district established pursuant to ORS Chapter 451, and the City of Milwaukie (“City”), an Oregon municipal corporation (collectively, the “Parties” and individually “Party”).

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

This Agreement establishes roles and responsibilities between the City and NCPRD for funding, grant administration, and construction of Phase III of Milwaukie Bay Park (the “Project”), which is owned by the City and is intended to be operated and maintained by NCPRD.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Term.** This Agreement shall be effective upon execution, and shall remain in effect until terminated or superseded.
2. **Grant Management.** NCPRD and City agree to the following Grant responsibilities under this Agreement:
  - A. **Grant Performance.** The District shall have primary responsibility for performance and completion of the Project, as it is described in the Oregon Community Paths Program and the Metro Local Share Grant Agreements. This includes, but is not limited to, project design, contractor selection and procurement, project management, compliance with all applicable laws and regulations, and payment pursuant to the Grant.
  - B. **Grant Administration.** The District shall administer and comply with all conditions and requirements set forth by the Grant awards to District. This includes, but is not limited to, requests for reimbursement, progress reports, final reports, inspection reports, completed site plan, project boundary map, project appraisals, digital images of the completed project, and representations and warranties. The District shall send copies of all grant deliverables and correspondence to the City.
  - C. **Recovery of Funds.** Any funds disbursed to the District under the Grant that are expended in violation or contravention of one or more of the provisions of the Grant or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to the Grantor by the District.

- D. **Responsibility for Grant Funds.** The District shall assume sole liability for City or District breach of the Grant. Upon City or District's breach of conditions that requires State to return funds to the federal government, hold harmless and indemnify State for an amount equal to the funds received under the Grant; or if legal limitations apply to the indemnification ability of the Grantees 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 the Grant.
  - E. **Records Maintenance and Access.** The District shall make and retain proper and complete books of record and account and maintain all fiscal records related to the Grant 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 as identified in Exhibit A. The District shall send copies of all records and expenditures to the City.
  - F. **Audit Requirements.** The District shall adhere to all terms and conditions regarding auditing requirements set forth by the Grant.
3. **Project Management.** The District and City agree to the following responsibilities under this Agreement:
- A. Permits required for the initiation of construction will be secured by The District by March 31, 2024, and all construction must be completed by December 31, 2024, or such other dates as mutually agreed by the Parties.
  - B. City shall allow District to construct the park and offsite improvements on City property.
  - C. City shall delegate authority to District to act as the lead on development and construction.
  - D. District shall plan, design, engineer, and construct park improvements to District and City standards, and comply with conditions and requirements set forth by the Grants.
  - E. District shall develop construction plans, specifications, and estimates for park facilities, fixtures, open space, and offsite improvements in accordance with District procurement policies.
  - F. District shall advertise, bid, and award a contract for construction plans and specifications for park facilities, fixtures, open space, and offsite improvements in compliance with District procurement policies and State of Oregon public works contracting laws.

- G. District shall manage and administer contractor and subcontractor bonds, licenses, insurances and certified payrolls in compliance with District procurement policies and State of Oregon public works contracting laws.
  - H. District shall coordinate relocation and installation of utilities with existing utility providers.
  - I. District shall coordinate community outreach with City during design and construction, including quarterly project updates to Milwaukie City Council, Milwaukie Parks and Recreation Board, and District Advisory Committee.
  - J. District shall provide City with as-built construction plans upon completion of project.
4. **Other Terms and Conditions.** District and City agree to the following responsibilities under this Agreement:
- A. City shall retain ownership of park, offsite infrastructure and all other improvements that are not moveable and integral to the built out environment following completion of construction. For example, concrete pads, paths and walkways, sidewalk and curb improvements, striping, restroom facilities, shade structures, grading and scarifying of soils, imported fill material, trees, shrubs, grasses, and other landscaping materials .
  - B. District shall retain ownership of fixtures which are easily moveable and are not part of the permanent built out environment following completion of construction (i.e. picnic tables, signage, and waste receptacles) except for any portion of playground equipment paid for by the City or associated non-profit or Neighborhood District Association.
  - C. The District shall operate and maintain Milwaukie Bay Park as a High Maintenance Area as defined in the Master IGA between District and City. For any period of necessary construction or maintenance occurring at the park, portions or the entire park, may be closed consistent with District policy, practice, contract, ordinance, rule or law.
  - D. The District shall be responsible for scheduling of Milwaukie Bay Park programs with priority for District and City Events and activities. The District will manage and coordinate all District-led events and activities and District special use permits, including collection of appropriate fees.
  - E. The District shall offer structured recreational and community opportunities for youth and adults at Milwaukie Bay Park four days a week during the summer (mid-June – August), and as available the rest of the year. Programming shall reflect community interests, and be offered at times that meet attendance minimums. Programming may be impacted and reduced due to access, weather, conflicting events or health mandates.



## 5. Termination.

- A. Either NCPRD or the City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within twenty-one (21) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such twenty-one (21) day period, this provision shall be complied with if the breaching Party begins correction of the default within the twenty-one (21) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- B. NCPRD may terminate this Agreement without penalty or obligation to the City in the event NCPRD fails to receive expenditure authority, grant awards, or other funding sufficient to allow NCPRD, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project under this Agreement is prohibited or NCPRD is prohibited from paying for such work from the planned funding sources.
- C. Unless otherwise provided in this Agreement, a defaulting party shall be treated as if that party terminated this Agreement.
- D. The District or City's "Development Costs" for the construction for Phase III of Milwaukie Bay Park shall include all costs incurred, funds contributed, work performed, consultants hired, debt incurred, if as a result of termination of this agreement penalties accrued through non-performance, and any other costs or obligations incurred.
- E. Prorated Development Costs and funds contributed by a party shall be the amount of money that represents that percentage of the Development Costs and funds contributed based upon the 25 year useful life of the park improvements. For example if the contract were to terminate after five years 80% of the useful life of the improvements would be remaining. The terminating party would pay 80% of the other party's development costs in that example.
- F. Should a party terminate the agreement and after termination the City assumes operation and maintenance of the park and does not operate Milwaukie Bay Park with access for all NCPRD residents on the same terms (equal use rights for district and city residents) for a period of 25 years from park completion City shall pay the prorated Development Costs of NCPRD, and return funds to any entity granting funds for the Project consistent with the grant agreement.
- G. Should the City be withdrawn from NCPRD, City will be deemed to have terminated the Agreement.

## 6. Indemnification.

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the District agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the District or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the District has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the District, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

7. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

**Milwaukie:**

City Liaison  
Peter Passarelli  
10722 SE Main Street  
Milwaukie, Oregon 97222  
Email: [passarellip@milwaukieoregon.gov](mailto:passarellip@milwaukieoregon.gov)

**District:**

District Liaison  
Michael Bork  
150 Beaver Creek Road  
Oregon City, OR 97045  
Email: [Mbork@ncprd.com](mailto:Mbork@ncprd.com)

8. **General Provisions.**

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas District without giving effect

to the conflict of law provisions thereof. Any claim between District and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas District 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 District 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. City, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** District shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. District shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, District shall permit the City’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** City and District 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, 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 Agreement.
- K. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- L. **Survival.** All provisions in Sections 2, 4 (A-B), 6, and 8 (A), (C), (D), (F), (G-L), and (O) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- M. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- N. **Force Majeure.** Neither City nor District shall be held responsible for delay or default caused by events outside of the City or District's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, City and District shall 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 Agreement.

- O. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**North Clackamas Parks  
and Recreation District**

**City of Milwaukie**

\_\_\_\_\_  
Tootie Smith, Chair, Board of Directors

\_\_\_\_\_  
Ann Ober, City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**COUNCIL RESOLUTION No. 56-2021****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT (NCPRD) FOR MILWAUKIE BAY PARK PHASE III GRANT ADMINISTRATION, CONSTRUCTION, AND OPERATIONS.**

**WHEREAS** the city wishes to fulfill the community's vision for Milwaukie Bay Park through the construction of a new play area, amphitheater, interactive water feature, picnic space, and plaza; and


**WHEREAS** the city has worked diligently since the 1990s to plan and construct multiple phases of improvements to the riverfront so that everyone can enjoy the beauty of the Willamette River; and in recognition of its unique position as a regional amenity offering unparalleled river access to the North Clackamas community and serving as a gateway to Clackamas County for visitors entering along highway 99E; and

**WHEREAS** the city wishes to finalize the grant administration, construction, and operational role commitments for the Milwaukie Bay Park project so that NCPRD can move forward and identify the final resources needed to construct Milwaukie Bay Park.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to sign an intergovernmental agreement between the City of Milwaukie and NCPRD for grant administration, construction, and operation of Milwaukie Bay Park Phase III.

Introduced and adopted by the City Council on **November 2, 2021**.

This resolution is effective immediately.




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Mark F. Gamba, Mayor

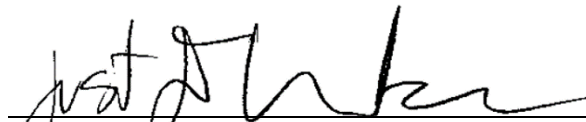
ATTEST:

APPROVED AS TO FORM:



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Scott S. Stauffer, City Recorder



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Justin D. Gericke, City Attorney



11/24/2021

Board of County Commissioners  
Clackamas County  
Board of North Clackamas Parks and Recreation District

Members of the Board:

**Milwaukie Bay Park Project Design Services –  
Contract Amendment #5 with 2.ink Studio Landscape Architecture**

<b>Purpose/Outcome</b>	Execution of Amendment #5 to Contract #3105 between NCPRD and 2.ink Studio, P.C. for Design Services for the Milwaukie Bay Park Project
<b>Dollar Amount and Fiscal Impact</b>	The contract fee for amendment #5 is \$643,536 for Design Services. The Total Contract Value for this and previously approved work is \$809,574. No County General Funds are involved.
<b>Funding Source</b>	System Development Charges (Zone 1) will provide \$533,941; NCPRD General Funds will provide \$109,595.
<b>Duration</b>	The contract termination date is December 31, 2024, or whenever NCPRD deems the project is complete, whichever is later.
<b>Previous Board Action/Review</b>	<ul style="list-style-type: none"> <li>• June 28, 2018 Business Meeting: Board approved professional services contract between NCPRD and 2.ink Studio for Milwaukie Bay Park Final Design Services.</li> <li>• 2019-2021 Board approvals: grant submittals, grant agreement, IGA with City of Milwaukie to transfer City funds to NCPRD for project, contract for Owner’s Representative Services, and authorization to obtain a Construction Manager/General Contractor.</li> <li>• 2017-2021 Board Updates (5)</li> </ul>
<b>Strategic Plan Alignment</b>	<p><b>1. How does this item align with your department’s Strategic Business Plan goals?</b></p> <ul style="list-style-type: none"> <li>• Aligns with the NCPRD Asset Development Strategic result of completing 33% of NCPRD project phases in the annual Capital Improvement Plan</li> <li>• Supports the purpose of the Asset Development program by providing planning and development services to NCPRD residents</li> <li>• Supports the purpose of NCPRD overall by providing access to parks, natural areas, trails, recreation services and facilities</li> </ul> <p><b>2. How does this item align with the County’s Performance Clackamas goals?</b></p>

	<ul style="list-style-type: none"> <li>• <i>Honor, Utilize, Promote, and Invest in our Natural Resources</i> by creating increased tree canopy, increased natural areas, better on-site stormwater utilization, increased floodplain resilience.</li> <li>• <i>Build a Strong Infrastructure</i> through improved recreation infrastructure, active transportation corridor and safe access public transportation, and improved stormwater management.</li> <li>• <i>Build Public Trust through Good Government</i> by design with inclusive engagement and partnership building to leverage funding.</li> <li>• <i>Grow a Vibrant Economy</i> by increasing visitation in the area and attracting more people to the surrounding retail and commercial areas within Clackamas County.</li> </ul>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. <i>Date of Counsel review: 11/15/21</i></li> <li>2. <i>Initials of County Counsel performing review: AN</i></li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item processed through Procurement? Yes</li> </ol>
<b>Contact Person</b>	Michael Bork, NCPRD Director, x4421  Heather Koch, NCPRD Acting Planning & Development Manager, x4358
<b>Contract No.</b>	#3105

## SUMMARY

The attached contract amendment #5 is to support the second phase of design team work for the Milwaukie Bay Park Project. The total fee is not to exceed \$643,536. Phases I & II combine for a Total Contract Value of \$809,574. Phase II services include: design development, land use submittal, preparation of construction documents, bid support, outreach materials, and construction administration. Construction administration will not commence until NCPRD ensures all requirements are met for construction to move forward. These requirements include: completing all documentation, obtaining approvals and permits, securing all funding, executing an Intergovernmental Agreement with the City of Milwaukie (“City”), and executing a Guaranteed Maximum Price (“GMP”) amendment with the construction phase contractor. The contract termination date is December 31, 2024, or whenever NCPRD deems the project is complete, whichever is later. This includes a one-year warranty period. With support from 2.ink Studio, NCPRD plans to conduct design and preconstruction work in FY 21-22 and FY 22-23. Construction start is planned for FY 22-23.

## BACKGROUND

NCPRD partnered with the City of Milwaukie in 2018-19 to develop a final design to complete Milwaukie Bay Park as a District-wide recreational waterfront. The design transforms 3.6 acres



of underutilized and predominantly undeveloped land into places to play, rest and gather. Key features include: an amphitheater, nature play area, interactive water feature, plaza with picnic terrace, a permanent alignment for the regional Trolley Trail, pathways, natural areas, public art and restrooms. NCPRD engaged a broad and diverse range of over 1,300 community members in the District during the design phase, advanced a funding strategy to leverage local, regional, state and other funds, and developed a process to build a preconstruction and construction services team in FY20-21.

The park is identified as a high priority need in the 2004 NCPRD Master Plan and 2007 NCPRD Parks and Recreation System Development Charges (SDC) Update Methodology Report and Capital Improvement Plan. The City owns the park and NCPRD plans for, develops and manages the City's parks under a Cooperative IGA. The Cooperative IGA was created as part of the formation of the District in 1990, and last amended in 2020 to reflect the adoption of new bylaws for the District Advisory Committee (DAC).

In 2018, NCPRD selected 2.ink Studio through a competitive RFP process for design services for the Milwaukie Bay Park Project ("Project"). The Board approved the contract on 6/28/18. The contract work supports design services starting with schematic design (Phase 1) and continuing through project completion, including but not limited to preparation of construction documents, permitting services, and construction administration. The initial fee was for a sum not to exceed \$166,038 for Phase I. Amendments #1-5 were approved to extend termination date only. To date, the total expended has been \$159,081.

As an NCPRD SDC-eligible project, \$533,941 in System Development Charges (Zone 1) and \$109,595 in NCPRD General Funds will be used for design services. No construction phase funds will be expended until the Project meets requirements to move into construction.

NCPRD's District Advisory Committee continues to review the full project funding. This design contract is part of Total Project Cost of \$9,600,000. Currently there is \$1,172,715 funding gap, therefore NCPRD staff is reaching out to other partners to identify potential funding sources. The contract work will allow NCPRD to prepare construction documents for the confirmed funding package.

*Draft Funding Plan (updated November 2021)*

Funding Source	Proposed	Status of Agreements*	Est. Date
City of Milwaukie	250,000	IGA approved; revision pending	Dec 2020 & 2021
Metro-City Local Share	750,000	City engagement and Metro IGA	Apr 2022
NCPRD SDC Zone 1	2,541,875	Construction IGA requested by Board; pending DAC SDC discussions scheduled	Jun 2021, Jun 2022

Metro-NCPRD Local Share	3,000,000	District engagement and Metro IGA pending	Jun 2022
NCPRD Gen Fund	48,475	Annual budget adoption	Jun 2021
State grant (LGGP)	750,000	Grant Agreement approved	Jun 2021
State grant (LWCF)	1,046,935	Grant Agreement pending	Mar 2022
Milwaukie Parks Found.	40,000	Fundraising underway	Spring 2022
Additional Funds	1,172,715	Outreach in process	2022
<b>TOTAL (hard &amp; soft costs)</b>	<b>9,600,000</b>	<i>Final costs must align with budget confirmed</i>	

**PROCUREMENT PROCESS:**

This Amendment #5 is in accordance with LCRB C-047-0800(a) for an anticipated amendment. Phase I of the process has been completed and the project is going forward with Phase II which will consist of the Final Design Work and CMGC collaboration.

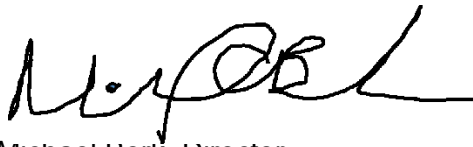
**RECOMMENDATION:**

Staff respectfully recommends that the Board, acting as the NCPRD Board of Directors, approve this Amendment #5 to Contract #3105 between NCPRD and 2.ink Studio for Design Services for the Milwaukie Bay Park Project.

**ATTACHMENTS:**

1. Amendment #5 – To the Contract Documents with 2.ink Studio PC for RFQ 2017-108 Milwaukie Bay Park Final Design

Respectfully submitted,



Michael Bork, Director  
North Clackamas Parks and Recreation District

**AMENDMENT #5  
TO THE CONTRACT DOCUMENTS WITH 2.INK STUDIO PC FOR RFQ 2017-108  
MILWAUKIE BAY PARK FINAL DESIGN**

**Contract #3105**

This Amendment #5 is entered into between **2.Ink Studio PC** (“Contractor”) and North Clackamas Parks and Recreation District (“District”) and shall become part of the Contract documents entered into between both parties on **June 28, 2018** (“Contract”).

The Purpose of this Amendment #5 is to make the following changes to the Contract:

1. ARTICLE I, Section 1. **Effective Date and Duration** is hereby amended as follows:  
The Contract termination date is hereby changed from December 31, 2021 to **December 31, 2024 or project completion, whichever is later.**
2. ARTICLE I, Section 2. **Scope of Work** is hereby amended as follows:  
District is requesting Contractor to perform Phase II of the project to include Final Design. The scope of work for Phase II is attached as Exhibit E and hereby incorporated by reference.
3. ARTICLE I, Section 3. **Consideration** is hereby amended as follows:  
In consideration for the additional Work for Phase 2, District is authorizing \$643,536.00 to complete the tasks. The budget is included as Exhibit F and the total Contract Compensation shall not exceed \$809,574.00.

ORIGINAL CONTRACT	\$ 166,038.00
AMENDMENT #1	Time Only
AMENDMENT #2	Time Only
AMENDMENT #3	Time Only
AMENDMENT #4	Time Only
<b><u>AMENDMENT #5</u></b>	<b><u>\$643,536.00</u></b>
<b>TOTAL AMENDED CONTRACT</b>	<b>\$ 809,574.00</b>

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 #5, effective upon the date of the last signature below.

2.Ink Studio, PC

North Clackamas Parks and Recreation District

 11/10/21  
\_\_\_\_\_  
Authorized Signature                      Date


\_\_\_\_\_  
Chair

Jonathan Beaver, Principal  
\_\_\_\_\_  
Printed Name

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

\_\_\_\_\_  
Date

**Approved as to form**

 11/15/2021  
\_\_\_\_\_  
County Counsel                                      Date

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## **Exhibit E**

### **STATEMENT OF WORK**

#### **WORKPLAN (PHASE II)**

This “Milwaukie Bay Park Final Design Project, Workplan” (the “Workplan”) is incorporated into Contract Services between 2.ink Studio and Clackamas County, for the work described herein.

#### **I. Project Understanding**

Based on 2.ink Studio’s (“Consulting Team”) final schematic design for the North Clackamas Parks and Recreation District (“NCPRD”) Milwaukie Bay Park, the Consulting Team understands the intent of the Milwaukie Bay Park Project (“Project”) as follows. Building upon the completed 2019 schematic design, work for the approximate 3.6-acre scope area will continue to focus on improvements that integrate park amenities and interpretive context, provide for safe, accessible and diverse recreational use, and emphasize the unique character of the park. Work for this contract will focus on a portion of the 6.8-acre site bound by the Willamette River to the west, SE McLoughlin Blvd. to the east, SE Harrison St. to the north and SE Washington St. to the south (“Project Site”), as shown in Figure One (final page of this Exhibit E).

The Consulting Team will provide design development, construction documentation, permitting, GMP set, and construction administration services for the project. In addition, the Consulting Team will provide cost estimating and coordination with a Construction Manager/General Contractor (“CM/GC”) administered through NCPRD. The project schedule anticipates work to begin December 2021 with project completion expected end of 2023.

Improvements may include, but are not limited to, community gathering space and pedestrian corridor, children’s play area (including traditional and nature play elements), interactive water feature, picnic area(s), grassy open space/amphitheater, native plantings, tree preservation, a restroom/storage building and trellis, stormwater management, elements to deter geese, design to support views, interpretive elements (up to 5), wayfinding signage, site furnishings that enhance a unique park character, and public art. Pedestrian/bike circulation, and pedestrian gateway features and improvements are included as well to integrate surrounding context where existing Trolley Trail and pedestrian access terminates at the site. The Consulting Team’s efforts will also include working with NCPRD’s selected artist to integrate public art within park improvements.

#### **II. Project Assumptions**

The Work Tasks, as set forth in Section III below, have been prepared under the following set of assumptions. These assumptions are based on conversations with NCPRD staff and research accomplished to date by the Consulting Team.

1. The Project Site is defined per Figure One (final page of this Exhibit E), and assumes that current primary vehicular patterns, right-of-ways, adjacent land use and ownership patterns will remain the same for the duration of work. Street work, if any, will be limited to minor modifications at existing curb ramps or curb area striping.
2. The Project Budget for the total hard construction costs (site work plus margins and adjustments) is \$7,200,000, excluding artwork. NCPRD acknowledges that the Project Budget and scope may be modified to remain within available funding, but that it is important to work closely with the Consulting Team to continue to meet the requirements of grant agreements for the Project.
3. NCPRD will provide adequate survey information covering the study area to the Consulting Team for the development of a detailed base plan. Survey information will include all property lines, surface improvements, topography, spot elevations on all key elements and grade breaks, site vegetation, underground utilities including invert elevations and all other information necessary to thoroughly document the site and adjacent street entries for construction. The Consulting Team will rely on the accuracy of the survey information when preparing designs and construction documents.
4. The Consulting Team assumes the Project Site does not contain contaminated soils requiring mitigation, nor wetlands.
5. Project assumes no Milwaukie Arts Committee process. The artist will be selected to work with the Consulting Team prior to the start of Construction Documents.
6. To support NCPRD decision-making, the Consulting Team is prepared to organize design documents to accommodate “additional alternate” scope elements to prioritize and align the Project with available funding sources. Prior to initiating design work, NCPRD, Consulting Team and CM/GC will work collaboratively to identify candidate scope elements and dates by when direction is needed consistent with design milestones.
7. NCPRD will pay for all permit applications, fees, and appeals directly.
8. Expenses include up to five full-size printed sets of drawings and specifications for CM/GC use.
9. Drawings and Specifications shall comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations including those applicable to use, occupancy and accessibility. The Consulting Team shall at its own cost promptly correct any Drawings and Specifications that contain errors, conflicts, or omissions that impair construction.
10. NCPRD has designated Shields Oblatz Johnsen to serve as Owner’s Representative. The Owner’s Representative will be NCPRD’s point of contact for communications with the Consulting Team and CM/GC for the duration of the Project.

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11. NCPRD will be contracting with a third-party consultant to perform special inspections identified in construction documents prepared by the Consulting Team.
12. NCPRD has provided Consulting Team with a copy of the Clackamas County General Conditions incorporated with the CM/GC contract to be included in Contract Documents and Supplemented as appropriate.
13. Consulting Team does not have authority to provide direction to the CM/GC that impacts either the Guaranteed Maximum Price or CM/GC Contract Term without the prior written approval of NCPRD.
14. NCPRD will be responsible for coordinating communications and approvals with its own NCPRD Board of Directors, as well as external agencies such as the Oregon Department of Transportation and the State Historic Preservation Office. The Consulting Team will be responsible for communications and approvals related to land use and permitting with the City of Milwaukie.

### **III. Project Schedule**

The following is the anticipated project schedule. NCPRD will work with the Consulting Team and CM/GC to determine if construction can start earlier.

- December 2021: Project Kickoff
- February 2022: 50% Design Development Complete
- May 2022: 100% Design Development Complete
- May 2022: Submit Land Use Application
- August 2022: 50% Construction Documents Complete
- November 2022: 95% Construction Documents (GMP & Permit Set) Complete
- January 2023: Start Park Construction
- November 2023: Substantial Completion
- December 2023: Final Completion
- December 2024: One-year Warranty Walk

### **IV. Work Tasks**

Consulting Team agrees to perform the following tasks and activities and provide NCPRD with the deliverables referenced in this Section IV, “Work Tasks.”

#### **Task One: Design Development**

Upon authorization from the Owner’s Representative, the Consulting Team will proceed with design development drawings for the park.

### **Task One: Goals and Sub-Tasks**

- Further develop or refine, based on information gathered in an initial Kick-Off Work Session, the preferred Design Development alternative, proposed products, furnishings, and equipment and continue developing detailed drawings.
- Provide a more refined package of proposed products, equipment, site furnishings, materials, and proposed color chips/samples for all items.
- Provide a detailed cost estimate and outline level technical specifications.

#### **1.01 Design Development Kick-Off Work Session**

Participate in half-day Work Session involving NCPRD, CM/GC and key members of Consulting Team to review updated design assumptions, CM/GC Schematic Design cost estimate and project schedule considerations to establish direction for design development work. Summarize design-related comments on the Schematic Design Plan and distribute to NCPRD and CM/GC.

#### **1.02 Update Design Concepts for Restroom/Storage Building**

Based on comments from NCPRD and determinations from the further assessment of Redwood tree root zone, confirm desired restroom building size and provide adjustments to the location based on adjacent features. Further develop façade study and relationship to adjacent trellis structure to ensure compatibility with NCPRD maintenance guidelines, aesthetic of park design, and Land Use requirements.

#### **1.03 Conduct Geotechnical Investigation (site specific) & Prepare Final Report**

Conduct supplemental geotechnical investigation at the locations of key project elements (e.g. interactive water feature, restroom/picnic overlook, stormwater swale, and event stage) to develop final geotechnical design recommendations and construction guidelines. Geotechnical work will include:

- Excavating up to four test pits with a backhoe to depths up to 10 feet below grade and conducting infiltration testing at a depth of approximately 5 feet below grade at one location.
- Maintaining a log of the soils encountered in the explorations and collecting soil samples for laboratory testing.
- Conducting a program of limited laboratory testing on select samples including moisture content, Atterberg limits, and grain size distribution determination.
- Performing limited engineering analysis to evaluate final foundation, retaining wall, and infiltration design parameters.
- Preparing a letter-report outlining the geotechnical findings and recommendations, including information related subsurface soil and groundwater conditions, earthwork guidelines, infiltration design parameters, retaining wall design, and foundation design parameters.

#### **1.04 Geese Management Analysis & Report**

Conduct an analysis of schematic design to determine what elements of design are most effective in deterring and managing geese and what additional standards, changes or additions are recommended to guide design changes, from placement and height of vegetation and structures to

other key components and details. Utilize research provided by NCPRD on local input and regional resources, following up if necessary with sources to clarify any additional standards, changes or additions needed. Summarize needs and changes in report.

### **1.05 Design Modifications to Plan (Design Development)**

The Consulting Team's services shall include but not be limited to a comparison of the CM/GC's estimate of the Cost of the Work based upon the Schematic Design Documents with NCPRD's Project Budget. The Consulting Team's services shall include revisions to the Schematic Design concept for the purpose of aligning the Cost of the Work with NCPRD's Project Budget. Once aligned, the Consulting Team shall request NCPRD's approval to proceed with preparation of Design Development documents.

Provide more detailed drawings, including existing conditions plan (survey), demolition plan including any recommended tree removals and root zone conflicts, grading plan (slope directions and gradients to communicate concepts), preliminary drainage designs, storm water treatment areas, site layout plan (scoring, paving interfaces, primary dimensions only, such as sidewalk widths and overall sizes of features (not detailed layout geometry), materials plan, irrigation zone plan (describe and/or show approach for modifying existing system to accommodate new improvements), planting plan (locations, massing and species alternatives), lighting plan, water feature plans, architectural improvements, and preliminary site details including art concept and plans as developed by NCPRD-contracted artist. Include a more refined package of proposed products, equipment, site furnishings, materials, and proposed colors for all items.

### **1.06 50% Design Development Package**

- Existing Conditions Plan (Survey)
- Civil Stormwater & Utility Plans, Utility Preliminary Details
- Demolition Plan
- Tree Inventory, Mitigation, and Preservation and Removal Plan
- Grading Plan
- Materials Plan
- Preliminary Layout Plan (primary dimensions only)
- Planting Concept Plan and Plant List
- Irrigation Zone Plan
- Preliminary Custom Details
- Water Feature Plans and Details
- Site Structural
- Site Electrical
- Preliminary Restroom/Shade Structure Plans and Details
  - Plumbing
  - Electrical/Low Voltage
  - Structural
  - Fixtures and finishes

### **1.07 Prepare 50% Design Development Specifications**



Prepare outline level specifications to provide basis for cost estimating and coordination between consultants.

**1.08 Prepare 50% Design Development Cost Estimate**

Construction cost estimates will be prepared to confirm probable costs and to determine that the proposed improvements are within the Project Budget. Seek input from Consulting Team's cost estimating consultant during design process to align design with Project Budget prior to initiating cost estimate. Cost estimate exercises will include coordination and reconciliation with costing by the project CM/GC. Review the construction cost estimates with NCPRD staff to inform NCPRD's decision regarding inclusion of bid alternates.

**1.09 Prepare Design Modifications Based on Budget**

Compare the Consulting Team's cost estimating consultant estimate and the CM/GC's estimated Cost of the Work based upon the fifty percent (50%) Design Development Documents with the NCPRD's Project Budget. The Consulting Team's services shall include revisions to the fifty percent (50%) Documents for the purpose of aligning the Cost of the Work with the NCPRD's Project Budget. Once aligned, the Consulting Team shall request NCPRD's approval.

**1.10 100% Design Development Package**

- Existing Conditions Plan (Survey)
- Civil Stormwater & Utility Plans, Utility Preliminary Details
- Demolition Plan
- Tree Inventory, Mitigation, and Preservation and Removal Plan
- Grading Plan
- Materials Plan
- Preliminary Layout Plan (primary dimensions only)
- Planting Concept Plan and Plant List
- Irrigation Zone Plan
- Preliminary Custom Details
- Plans and details to support Artist Work
- Water Feature Plans and Details
- Site Structural
- Site Electrical
- Preliminary Restroom/Shade Structure Plans and Details
  - Plumbing
  - Electrical/Low Voltage
  - Structural
  - Fixtures and finishes

**1.11 Prepare 100% Design Development Specifications**

Prepare outline level specifications to provide basis for cost estimating and coordination between consultants.

**1.12 Land Use Submittal**

The Consulting Team shall lead the preparation of application materials and coordination and communication with the jurisdictional authorities regarding all matters associated with the land use approval process.

**1.13 Prepare Draft Storm Water Management Report**

Prepare draft of soil infiltration testing, reports, forms, calculations and drawings necessary to meet the City of Milwaukie storm water management requirements.

**1.14 Administrative/General Coordination/Meeting Minutes**

Coordinate communication with Owner's Representative on behalf of Consulting Team to refine project preconstruction schedule, monitor the design team deliverables and schedule, provide written summaries of all meetings attended exclusive of OAC meetings, and monitor Consulting Team invoices and budgets

**Task One: Deliverables**

- Additional study of restroom building and shade structure to incorporate size as confirmed by NCPRD and determine final location per further investigation of site conditions; review of design and finishes with NCPRD staff to determine suitability for long-term maintenance and Land Use approval.
- Value engineered version of schematic design (if directed by NCPRD)
- Report on Geotechnical Investigation
- Geese Management Report
- Draft Storm Water Report
- 50% and 100% Design Development Packages
- Technical Specifications
- Package of proposed products for unique site amenities including playground equipment, site furnishings, and materials, including web links for each
- Detailed design development cost estimates by cost estimator (at 50% Design Development)
- Prepare SD and DD comments log and track responses
- Comments/corrections to OAC meeting summaries as appropriate
- Written meeting summaries for all meetings attended, except OAC meetings

**Task One: Meetings**

- One Kick-off Work Session (half day) with NCPRD, CM/GC, and key members of Consulting Team to review updated design assumptions, CM/GC Schematic Design cost estimate, and project schedule considerations to establish direction for design development work. Summarize design-related comments on the Schematic Design Plan and distribute to NCPRD and CM/GC.
- OAC meetings to occur every other week throughout preconstruction
- Internal Design Team meetings – 2.ink and sub-consultants
- Up to two (2) Artist meetings – NCPRD and 2.ink Studio
- Two (2) NCPRD Staff Review meetings
- Meetings as required with jurisdictions having authority over land use approval (anticipate

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- this to be City of Milwaukie Pre-application Conference and land use hearing at City Planning Commission). Meetings associated with a land use appeal would be considered additional services.
- Up to five (5) meetings with various City of Milwaukie staff and boards (planning, design City Council) and the NCPRD Board (and/or District Advisory Committee)
  - One meeting with ODOT to review right of way, permitting and other priorities
  - One meeting with architect to discuss design alternatives in detail

### **Task Two: Construction Documents**

Upon authorization by the Owner's Representative, the Consulting Team will proceed with preparation of construction documents.

### **Task Two: Goals and Sub-Tasks**

- Obtain input from NCPRD staff
- Refine project work to provide documentation leading toward a plan set that is consistent with applicable permit requirements and sufficiently detailed to support CM/GC preparation of a Guaranteed Maximum Price.
- Ensure all drawings and specifications contained in Construction Documents are complete and consistent to minimize added cost risk to NCPRD

#### **2.01 Design Modifications Based on Budget**

Compare the CM/GC's estimated Cost of the Work based upon the one hundred percent (100%) Design Development Documents with NCPRD's Project Budget. The Consulting Team's services shall include revisions to the one hundred percent (100%) Design Development Documents for the purpose of aligning the Cost of the Work with NCPRD's Project Budget.

Include up to three bid alternates and technical specifications in compliance with NCPRD standards.

Compare the CM/GC's estimated Cost of the Work based upon the fifty percent (50%) Construction Documents with NCPRD's Project Budget. The Consulting Team's services shall include revisions to the fifty percent (50%) Construction Documents for the purpose of aligning the Cost of the Work with NCPRD's Project Budget.

Provide all construction documents necessary to construct the project including construction drawings and technical specifications that are coordinated with Clackamas County General Conditions of the Contract and Division One specifications. NCPRD will provide to the Consulting Team NCPRD's standard requirements and materials. Technical specifications are required in CSI Masterformat. The final version of drawings is required to be produced in a CAD format in .dwg format. The information will be required to be separated into levels (layers) and identified by level (layer) name.

Perform all work necessary to meet the City of Milwaukie Stormwater Management requirements, with assumption that they will be based on new Water Environment Services standards, including soil infiltration testing, reports, forms, calculations, and drawings. Perform all work necessary to meet other codes and requirements and provide a final report of findings.

Seek regular input from CM/GC throughout Construction Documents task to align design with Project Budget, and as directed by NCPRD, adjust the design and/or materials to align the project's cost with the Project Budget, allowing for some alternates to be carried forward through construction documents and CM/GC bidding.

**2.02 Prepare 50% Construction Documents (including, but not limited to)**

- Existing Conditions Plan (Survey)
- Erosion Control Plan
- Civil Drainage, Storm & Utility Plans, Utility Details
- Demolition Plan
- Tree Mitigation/Tree Preservation and Removal Plan
- Grading Plan
- Materials Plan
- Layout Plan
- Irrigation Plan
- Planting Plan
- Details
- Plans and details to support artist work
- Water Feature Plans and Details
- Site Structural
- Site Electrical
- Restroom/Shade Structure Plans and Details
  - Plumbing
  - Electrical/Low Voltage
  - Structural
  - Fixtures and finishes

**2.03 Prepare 50% Construction Document Specifications**

Prepare specifications to provide basis for cost estimating, construction standards, and coordination between consultants. Work will include Cover Pages, Contact Pages, Table of Contents, and Technical Specification Sections. Assist NCPRD in coordinating and supplementing General Conditions and Supplemental Reports.

**2.04 Prepare Design Modifications Based on Comments**

Compare the CM/GC's estimated Cost of the Work based upon the fifty percent (50%) Construction Documents with NCPRD's Project Budget. The Consulting Team's services shall include revisions to the fifty percent (50%) Documents for the purpose of aligning the Cost of the Work with NCPRD's Project Budget.

**2.05 Prepare 95% Construction Documents/GMP and Permit Sets (including, but not limited to)**

- Existing Conditions Plan (Survey)
- Erosion Control Plan
- Civil Drainage, Storm & Utility Plans, Utility Details
- Demolition Plan
- Tree Mitigation/Tree Preservation and Removal Plan
- Grading Plan
- Materials Plan
- Layout Plan
- Irrigation Plan
- Planting Plan
- Details
- Plans and details to support artist work
- Water Feature Plans and Details
- Site Structural
- Site Electrical
- Restroom/Shade Structure Plans and Details
  - Plumbing
  - Electrical/Low Voltage
  - Structural
  - Fixtures and finishes

**2.06 Prepare 95% Construction Documents (Permit Set and GMP Package)**

Prepare drawings and specifications to provide basis for pricing, construction standards, and coordination between consultants. Work will include Cover Pages, Contact Pages, Table of Contents, and Technical Specification Sections. Assist NCPRD in coordinating and supplementing General Conditions and Supplemental Reports.

Provide all information including, but not limited to, drawings, specifications, and reports necessary to obtain required site development/building permits.

Prior to permit submittal, if the Owner's Representative determines, at their sole discretion, that the Permit drawings require too many revisions or there are too many outstanding unresolved issues, the issues will be resolved to the satisfaction of the Owner's Representative by the Owner's Representative in coordination with the Consulting Team and the plan reviewers/stakeholders, and the Consulting Team shall make the revisions prior to producing permit sets for submittal.

If the Owner's Representative determines the NCPRD Permit review comments and any unresolved issues are minor enough that the Permit drawings and specifications are sufficient for permit submittal, any remaining NCPRD Permit review comment revisions may be made during the permitting period, prior to producing the 100% CD set.

**2.07 Administrative/General Coordination/Meeting Minutes**

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Coordinate communication with Owner's Representative on behalf of Consulting Team to refine project preconstruction schedule, monitor the design team deliverables and schedule, provide written summaries of all meetings attended exclusive of OAC meetings, and monitor Consulting Team invoices and budgets

#### **Task Two: Deliverables**

- Written responses to NCPRD comment log from CD comments
- Stormwater Operations & Maintenance Form, Plan and Specifications, if required for permits
- DEQ 1200c documents, as required
- Certified Arborist Report, if required
- Written summaries of Consulting Team and regulatory agency meetings
- Comments/corrections to OAC meeting summaries as appropriate

#### ***50% CD Package***

- 50% Construction Documents package
- Technical Specifications
- Revised package of proposed products, equipment, site furnishings, materials, and color chips/samples, including web links for each

#### ***95% CD Package (Permit Set and GMP Package)***

- Value engineered version of 50% CD cost estimate (if directed by NCPRD)
- 95% Construction Documents package (Permit Set and GMP Package) with up to three bid alternates.
- Technical Specifications
- Revised package of proposed products, equipment, site furnishings, materials, and color chips/samples, including web links for each

#### **Task Two: Meetings**

- Up to eleven (11) OAC meetings to occur every other week throughout preconstruction
- Internal Design Team meetings – 2.ink and sub-consultants
- Up to two (2) Artist meetings – NCPRD and 2.ink Studio
- One (1) NCPRD Staff Review meeting
- Up to three (3) meetings with City of Milwaukie, City engineering staff, District Advisory Board (or others in place of these)

#### **Task Three: Bidding**

The Consulting Team will assist the CM/GC with any bidding questions.

#### **Task Three: Goals and Sub-Tasks**

- Provide additional information to the CM/GC to finalize bid and establish final GMP.

#### **3.01 Issue Addenda**

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Prepare any addenda based on requested changes during final bidding.

### **3.02 GMP Set Services/Questions/Substitutions**

Prepare all addenda including review of material substitution requests and document clarifications. The Consulting Team will update drawings electronically with all addenda information, and provide the Construction Set of drawings and specifications with all addenda items incorporated.

Assist CM/GC during bidding period providing clarifications, addenda review, substitution requests, pre-bid conference attendance, and answering general questions.

### **3.03 100% CD (For Construction Set)**

Prepare the 100% Construction Set containing all the drawing and specification revisions to date, as well as all permit revisions and bidding revisions. This document will serve as the set used in the field during construction.

### **3.04 Administrative/General Coordination/Meeting Minutes**

Coordinate communication with Owner's Representative on behalf of Consulting Team to refine project preconstruction schedule, monitor the design team deliverables and schedule, provide written summaries of all meetings attended exclusive of OAC meetings, and monitor Consulting Team invoices and budgets

#### **Task Three: Deliverables**

- Bid Addenda as needed
- Substitution Requests review and response as needed.
- Construction Set, incorporating all bid addenda revisions, selected alternates and value engineering revisions, and any remaining permit revisions. Includes digital set plus up to five printed sets for use by project team.
- Written meeting summary for all meetings attended, except OAC meetings

#### **Task Three: Meetings**

- Up to two (2) OAC meetings
- Up to one (1) Internal Design Team meeting – 2.ink and sub-consultants

#### **Task Four: Permitting**

Upon authorization by the Owner's Representative, the Consulting Team will proceed with permit applications based on the permit set prepared in Task 2. The Consulting Team will manage the permit process with the City and coordinate signatures and payments with the Owner's Representative. The Consulting Team will be the applicant and prime point of contact, meaning all communications, check sheets, responses, negotiations, and appeals will flow through them.

#### **Task Four: Goals and Sub-Tasks**

- Participate in meetings, and make necessary revisions to obtain permits

#### **4.01 Permit Applications and Forms**

The Consulting Team shall take the lead role in preparing application materials and coordinating and communicating with the jurisdictional authorities regarding all matters associated with the permitting and approval process. The Consulting Team will be the applicant and prime point of contact, meaning all communications, check sheets, responses, negotiations, and appeals will flow through them.

#### **4.02 Prepare Final Storm Water Management Report**

Prepare final report of soil infiltration testing, reports, forms, calculations and drawings necessary to meet the City of Milwaukie Storm water Management requirements.

#### **4.03 Prepare DEQ 1200c Documents**

Prepare DEQ 1200-CN permit application and Standard Erosion Control Template Drawings to City of Milwaukie. Drawings include BMP matrix, notes and details.

#### **4.04 Revisions/Appeal to Permit Set**

Provide all additional information, resubmittals, corrections and additions necessary to obtain required site development/building permits, including trips to City of Milwaukie to mark up or attach revisions to the permit review sets as necessary. The Owner's Representative will give direction on revisions.

#### **4.05 Street Improvement Submittal (ODOT)**

Provide Street Improvement Documents per ODOT standards for limited work within the right of way, including changes to street utilities, street planting zone trees and shrubs, modifications to existing striping, and modifications to existing curb cuts. Work includes required 30%, 60%, 90% and final submittals. Anticipated signal changes include removal and replacement of a single signal pole at the Monroe Street Plaza.

#### **4.06 Administrative/General Coordination/Meeting Minutes**

Coordinate communication with Owner's Representative on behalf of Consulting Team to refine project preconstruction schedule, monitor the design team deliverables and schedule, provide written summaries of all meetings attended exclusive of OAC meetings, and monitor Consulting Team invoices and budgets.

#### **Task Four: Deliverables**

- Permit application preparation and submittal
- Revisions to permit sets as necessary to obtain building permit
- Appeal applications as necessary to obtain permits (completed by Owner's Representative)
- Written meeting summary for all meetings attended, except OAC meetings

#### **Task Four: Meetings**

- OAC Meetings occurring every other week
- Internal Design Team meeting – 2.ink and sub-consultants



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- Meeting to resolve building permit check sheet comments, if necessary

#### **Task Five: Construction Administration Services**

Upon authorization by the Owner's Representative, the Consulting Team will proceed with construction administration.

#### **Task Five: Goals and Sub-Tasks**

- Provide construction administration services to ensure successful interpretation of the construction documents
- Review operations and maintenance manuals
- Assist NCPRD in close-out procedures
- Attend preconstruction meeting, generally weekly project meetings and site visits during construction, site observation visits as necessary, site observation reports, fabrication plant, nursery and quarry visits as required in the project specifications, additional site visits as necessary for problem solving, samples and mockups
- Communication with the CM/GC through Owner's Representative
- Track all drawing and specification changes throughout the construction process in the electronic files for ease of compiling Record Drawings during Close-Out
- General Conditions: NCPRD and Consulting Team will jointly provide administration of the Contract between NCPRD and the CM/GC as set forth in Clackamas County General Conditions. The Consulting Team shall not advise nor have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work.
- Certificate for Payment: The Consulting Team shall review and certify the amounts due the CM/GC and shall issue certificates in such amounts. The Consulting Team's certification for payment shall constitute a representation to NCPRD, based on the Consulting Team's evaluation of the Work and on the data comprising the CM/GC's Application for Payment, that, to the best of the Consulting Team's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents.

#### **5.01 Submittals and Shop Drawings Review**

Consulting Team shall review Submittal List and Schedule provided by and maintained by the CM/GC to ensure completeness and coordinate review. The Consulting Team shall review and approve or take other appropriate action upon the CM/GC's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the CM/GC's responsibility. The Consulting Team's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Consulting Team, of any construction means, methods, techniques, sequences or procedures. Incomplete submittals will be rejected.

If the Contract Documents specifically require the CM/GC to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Consulting Team shall specify the appropriate performance and design criteria that such services must satisfy. The Consulting Team shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the CM/GC that bear such professional's seal and signature when submitted to the Consulting Team. The Consulting Team shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

**5.02 Respond to Requests for Information**

The Consulting Team shall review and respond to requests for information about the Contract Documents. The Consulting Team's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Consulting Team shall prepare and issue supplemental Drawings and Specifications in response to requests for information. Prior to finalizing response, Consulting Team shall review with CM/CG to confirm there is no impact to project schedule or budget.

**5.03 Issue Architectural Supplemental Instructions (ASI)**

Provide supplemental information to the CM/GC as required to clarify design intent, provide greater detail, or provide information that was otherwise unavailable.

**5.04 Substitution Request Review and Response**

Provide responses to CM/GC's requests for substitutions during construction.

**5.05 Review OAC Meeting Minutes**

Review weekly meeting minutes prepared by Owner's Representative and provide corrections as appropriate.

**5.06 Evaluation of the Work (Field Reports)**

The Consulting Team shall visit the site at intervals appropriate to the stage of construction to become generally familiar with and to keep NCPRD informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the NCPRD against defects and deficiencies in the Work, and (3) to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. On the basis of the site visits, the Consulting Team shall report to the NCPRD (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the CM/GC, and (2) defects and deficiencies observed in the Work. The Consulting Team shall provide field reports and documentation for each site visit.

**5.07 Project Close Out Document Review**

Review Operations and Maintenance Manuals prepared by CM/GC for completeness, providing all comments to NCPRD Project Manager.

#### **5.08 Punch List, Substantial and Final Completion**

The Consulting Team's inspection shall be conducted with NCPRD and Owner's Representative to confirm conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the CM/GC of Work to be completed or corrected. The Consulting Team will prepare punch list and conduct up to two site visits to ensure items have been closed out.

The Consulting Team shall promptly: conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive and review completeness of written warranties, and related documents required by the Contract Documents from the CM/GC and forward to the Owner's Representative, for review and NCPRD records; and recommend issuance of a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

#### **5.09 Record Drawings and Specifications (As-Builts)**

Review CM/GC provided marked up as-builts and provide comments on their accuracy and completeness. Produce electronic record drawings that include all changes made to the project since the Conformance Set, including owner/design team revisions and the information from CM/GC's as-built mark ups.

#### **5.10 One Year Warranty Visit**

Upon request of NCPRD and/or the Owner's Representative, and prior to the expiration of one year from the date of Substantial Completion, the Consulting Team shall, without additional compensation, conduct a meeting with NCPRD and CM/GC to review the facility operations and performance.

#### **Task Five: Deliverables**

- Review and certification of Pay Applications
- Review and approval of submittals and shop drawings, including a prompt initial completeness review
- Requests for Information (RFI) responses
- Architect's Supplemental Instructions (ASIs) as necessary
- Substitution Request review and responses
- Substantial Completion punchlist, including items keyed to a key map and photos as appropriate to illustrate deficiencies
- Final Completion punchlist, including items keyed to a key map and photos as appropriate to illustrate deficiencies
- Final Electronic Record Drawings & Specifications (As-Builts)
- Written comments from review of Operations and Maintenance Manuals
- One Year Warranty Visit Report

#### **Task Five: Meetings**

- One (1) Pre-Construction Meeting

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- Weekly OAC Construction Meetings and Site Observations with NCPRD, Owner's Representative, CM/GC and Consulting Team members as appropriate. Site Observations will occur after or before each weekly meeting and include observation reports as necessary to document progress, deficiencies, and on-site discussions. Meeting notes provided by Owner's Representative.
- Four (4) Nursery/Fabricator/Quarry Visits
- Two (2) Substantial Completion walk-through and punch list
- Two (2) Final Completion walk-through
- One (1) One Year Warranty Visit

#### **Task Six: Supplemental Outreach Materials**

Upon authorization by the Owner's Representative, the Consulting Team will proceed with providing supplemental outreach materials on an hourly/not-to-exceed basis. The purpose of these materials is to support continued public outreach for the project centered around specific project areas as appropriate, such as the water feature, playground, or other site features.

#### **Task Six: Goals and Sub-Tasks**

- Provide colored and annotated plan graphics.
- Provide updates to 3D modelling and rendered views.
- Provide updates to previous renderings, plans, or diagrams.
- Provide narratives or precedent imagery of any design elements.

#### **Task Seven: Early Earthwork Package**

Upon authorization by the Owner's Representative, the Consulting Team will proceed with preparation of an early earthwork package at around the time of the 50% Construction Document Set to procure a grading permit to allow site grading operations to begin prior wet weather conditions on the site.

#### **Task Seven: Goals and Sub-Tasks**

- Obtain input from NCPRD staff
- Refine project work to provide documentation leading toward a plan set that is permissible and suitable for setting Guaranteed Maximum Price and proceeding with construction with CM/GC.

#### **7.01 Prepare 100% Construction Documents for Rough Earthwork**

Set will include, but not limited to:

- Existing Conditions Plan (Survey)
- Erosion Control Plan
- Civil Drainage, Storm & Utility Plans, Utility Details (confirm)
- Demolition Plan
- Tree Mitigation/Tree Preservation and Removal Plan
- Grading Plan
- General Site Plan (for reference only)

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### **7.02 Revisions/Appeal to Permit Set**

Provide all additional information, resubmittals, corrections and additions necessary to obtain required grading permits, including trips to City of Milwaukie to mark up or attach revisions to the permit review sets as necessary.

### **7.03 Administrative/General Coordination**

Including communication within Consulting Team and with Owner's Representative, refining project schedule, monitoring the design team deliverables and schedule, invoices and budgets, and facilitating communication between NCPRD and Consulting Team.

#### **Task Seven: Deliverables**

- Permit Documents package
- Revisions to Permit Documents as required by City.

#### **Task Seven: Meetings**

- Up to one (1) meeting with City of Milwaukie or City engineering staff

#### **Task Eight: Interpretive Elements**

Upon authorization by the Owner's Representative, the Consulting Team will proceed with preparation of interpretive elements for the project.

#### **Task Eight: Goals and Sub-Tasks**

- Conduct Historical Research for use in interpretive elements and/or public art.
- Develop graphic interpretive elements (up to 5)

### **8.01 Historical Research and Interpretive Concepts**

Conduct further research into the City of Milwaukie's downtown, park, and area history. With guidance from NCPRD and Consulting Team, expand on the Historical Overview and Historical Themes prepared in Schematic Design Phase. Prepare a final report to discuss with project team. Write narratives for up to five (5) topic areas that may be developed into specific interpretive features integrated into the park's infrastructure. Research will include text, images, and timelines. Interpretive elements may be text and/or image based and will be integrated into park elements designed by the Consulting Team, stand-alone interpretive plaques, or artwork to be developed for installation at the park. Integrate information into appropriate previous Tasks as needed: Design Development Documents in conjunction with Task 1; Construction Documents in conjunction with Task 2; Bidding tasks in conjunction with Task 3; and Construction Administration in conjunction with Task 5.

#### **Task Eight: Deliverables**

- Historical Research Final Report and Interpretive Narratives
- Written text for five (5) themes
- 50% and 100% Design Development Documents

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- 50% and 100% Construction Documents

**Task Eight: Meetings**

- Meetings in coordination with OAC meetings or others as integrated with Tasks 1-5.

**Figure One - Project Site**













November 24, 2021

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of the Intergovernmental Agreement between  
 Water Environment Services and City of Estacada for Hauling and Storage Services  
No County General Funds are involved.

<b>Purpose/Outcomes</b>	Approval of the Intergovernmental Agreement between Water Environment Services and City of Estacada for Hauling and Storage Services. No County General Funds are involved.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	No general fund dollars.
<b>Duration</b>	The Agreement ends November 30, 2024, with options for extensions.
<b>Previous Board Action/Review</b>	This item was presented for a temporary emergency agreement in February, 2021.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This project supports the WES Strategic Plan to beneficially reuse biosolids produced at the Water Resource Recovery Facilities and to support regional disposal options and provide wastewater treatment services to members of the community.</li> <li>2. This service supports the County Strategic Priority to ensure safe, healthy, and secure communities.</li> </ol>
<b>Counsel Review</b>	Date of Counsel review: 10/21/2021 Name of County Counsel performing review: Amanda Keller
<b>Procurement Review</b>	Was the item processed through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If no, provide a brief explanation: Item is an Intergovernmental Agreement with the City of Estacada.
<b>Contact Person</b>	Terrance Romaine, 503-557-2821, <a href="mailto:tromaine@clackamas.us">tromaine@clackamas.us</a>
<b>Contract No.</b>	N/A

**BACKGROUND:**

Due to capacity issues and limited land application in winter months, the City of Estacada desires immediate assistance with hauling and storage of approximately 70,000 gallons of Class B biosolids (“City Biosolids”) generated at the City’s treatment facility. The District is willing to accept at the Kellogg Creek Water Resource Recovery Facility (“Kellogg WRRF”) or Tri- City Water Resource Recovery Facility (“Tri-City WRRF”) on an as needed basis during the duration of this agreement.

**RECOMMENDATION:**

WES staff recommends the Board, acting as the governing body of Water Environment Services, approve the Intergovernmental Agreement between Water Environmental Services and the City of Estacada for Hauling and Storage Services.

Respectfully submitted,

A handwritten signature in blue ink that reads "Greg Geist". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Greg Geist  
Director, Water Environment Services

Attachment: Intergovernmental Agreement between Water Environmental Services and the City of Estacada

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN WATER ENVIRONMENT SERVICES  
AND THE CITY OF ESTACADA  
FOR HAULING AND STORAGE SERVICES**

THIS AGREEMENT (this “Agreement”) is entered into and between Water Environment Services (“District”), an intergovernmental entity formed pursuant to ORS Chapter 190, and the City of Estacada (“City”), an Oregon municipal corporation, collectively referred to as the “Parties” and each a “Party.”

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

Due to capacity issues and limited land application in winter months, the City desires immediate assistance with hauling and storage of approximately 70,000 gallons of Class B biosolids (“City Biosolids”) generated at the City’s treatment facility. The District is willing to accept at the Kellogg Creek Water Resource Recovery Facility (“Kellogg WRRF”) or Tri- City Water Resource Recovery Facility (“Tri-City WRRF”) pursuant to the terms of this Agreement (collectively, the “District Facilities”).

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Term.** This Agreement shall be effective upon execution, and shall expire November 31, 2024.
2. **Scope of Services.** The District and the City agree to the obligations and conditions identified in the Scope of Services, attached hereto as Exhibit A and incorporated herein (“Services”).
3. **Consideration.** The City agrees to pay the District the price of \$0.10 per gallon of City Biosolids delivered to District Facilities. This fee may be adjusted from time to time by the Parties, without need for further amendment of this Agreement. All fee adjustments shall be based on changes to the District’s rates and charges.
4. **Payment.** The District will submit monthly invoices to the City for Services rendered in accordance with the terms of this Agreement. The City agrees to pay invoices within thirty (30) days of receipt.
5. **Representations and Warranties.**
  - A. *City Representations and Warranties:*
    - i. City represents and warrants to District that City has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of City enforceable in accordance with its terms.



- ii. City represents and warrants that all City Biosolids delivered to District Facilities will be Class B biosolids as defined in Oregon Administrative Rules Chapter 340, Division 50 and 40 CFR Part 503.

**B. *District Representations and Warranties:***

- i. District represents and warrants to City that District has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of District enforceable in accordance with its terms.
- ii. The District warrants that any services it furnishes under this Agreement will be in compliance with OAR Chapter 340, Division 50 and 40 CFR part 503 and other applicable federal, state and local laws.

C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**6. Suspension; Termination.**

A. Suspension. The District may immediately suspend and refuse to furnish Services under this Agreement if the City Biosolids fail to meet the Class B standard defined in Section 5 above or are otherwise determined by the District, in its sole discretion, not to be suitable for discharge to District Facilities. The District will provide prompt notice to the City of any suspension in Services.

B. Termination.

- i. Either the District or the City may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- ii. Either the District or the City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- iii. The District or the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- iv. The District may terminate this Agreement in the event the District fails to receive expenditure authority sufficient to allow the District, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or

interpreted in such a way that either the Project under this Agreement is prohibited or the District is prohibited from paying for such work from the planned funding source.

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

## 7. **Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the District agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the District or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the District has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the District, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

- 8. **Insurance.** The City agrees to furnish the District with 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 Clackamas District, 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 Agreement. If self-insured, City shall provide documentation to the District of City's self-insured status by completing the Self-Insurance Certification form provided by the District.
- 9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

- A. Terrance Romaine or their designee will act as liaison for the District.

### **Contact Information:**



Water Environment Services  
15941 S. Agnes Ave.  
Oregon City, OR 97045  
Phone: 503-557-2821  
Email: [tromaine@clackamas.us](mailto:tromaine@clackamas.us)

Chris Lewis or their designee will act as liaison for the City.

**Contact Information:**

City of Estacada, Plant Operations Manager  
800 NW Evergreen Way  
Estacada, OR 97023  
Phone: 503.630.8270 x219  
Email: [lewis@cityofestacada.org](mailto:lewis@cityofestacada.org)

**10. General Provisions.**

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of the District and Clackamas County, without giving effect to the conflict of law provisions thereof. Any claim between District and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas 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 District 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. The City, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** City shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required

by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. City shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, City shall permit the District's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.

E. **Work Product.** Reserved.

F. **Hazard Communication.** Reserved.

G. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

H. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

I. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

J. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

K. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.



- L. **No Third-Party Beneficiary.** City and District 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, 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 Agreement.
- M. **Subcontract and Assignment.** City shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the District, which shall be granted or denied in the District's sole discretion. District's consent to any subcontract shall not relieve City of any of its duties or obligations under this Agreement.
- N. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- Q. **Time is of the Essence.** The Parties agree that time is of the essence in the performance this Agreement.
- R. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- S. **Force Majeure.** Neither City nor District shall be held responsible for delay or default caused by events outside of the City or District's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, City shall 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 Agreement.
- T. **Confidentiality.** Reserved.
- U. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

*[Signature Page Follows]*



**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**Water Environment Services**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

**City of Estacada**

  
\_\_\_\_\_  
Authorized Signatory

Plant operations manager  
\_\_\_\_\_  
Title

11-17-2021  
\_\_\_\_\_  
Date

## EXHIBIT A – SCOPE OF SERVICES

### City of Estacada and Water Environment Services IGA

#### A. CITY OBLIGATIONS AND DISPOSAL CONDITIONS

1. Class B Biosolids. At or prior to delivery, the City will provide District with characteristics data that demonstrates that the City Biosolids meet the requirements of Class B Biosolids defined in Oregon Administrative Rules Chapter 340, Division 50 and 40 CFR Part 503 (“Class B Requirements”). If the City Biosolids do not meet the Class B Requirements, then the District may refuse acceptance of the City Biosolids.

2. Measurement of Discharge Volume. The City will determine the volume of Biosolids discharged by using one of two methods:

- a) Subtracting the empty truck weight from the full weight and converting the weight of the material discharged to gallons. Truck weights can be determined by use of scales at available at Tri-City WRRF.
- b) If the actual capacity of the truck tank is known, using the known volume and assuming the a full tank was discharged

3. Interference. If District determines, in its sole discretion, that the City Biosolids are: a) causing, or could cause interference with District facility operations, including, but not limited to, any interference or pass-through that might cause District Facility to exceed any condition of its NPDES permit; b) contains contamination that could make District’s biosolids or recycled water unsuitable for their intended uses; or c) otherwise not suitable for discharge to District facilities, District may suspend Services in accordance with Section 6(A) of the Agreement.

4. Spills/Cleanup. The City must prevent spills or tracking of City Biosolids at District Facilities. The City shall be responsible for the clean up and removal from District’s premises of all spills, contaminated matter, and contaminated clean up material, in addition to all costs of any nature (including fines, etc.) related to spills or tracking.

5. District Hours and Location of Operation. The City may unload the City Biosolids at times approved by District at the Kellogg Creek Water Resource Recovery Facility located at 11525 SE McLoughlin Blvd Milwaukie, OR 97222, or at the Tri-City Water Resource Recovery Facility at 15941 S. Agnes Ave. Oregon City, OR 97045.

6. Hauling Tickets. The City shall be responsible for providing a hauling ticket for each load of City Biosolids that are hauled to District facilities in order to document the number of gallons discharged.

7. Sampling Procedure. The City shall collect a representative sample of the City Biosolids and deliver it to District on the discharge date.

8. Off-loading Biosolids. The City shall off-load at the disposal point designated by District. The City shall notify District personnel prior to discharge, in order to allow District staff to monitor the discharge. Contact information for District personnel will provided by District.

9. Compliance with Terms. The City shall ensure that all City employees and representatives have read, understood and agreed to the terms and conditions contained herein regarding hauling, delivery, off-loading and cleanup.

10. Obligation of Disposal. This Agreement does not obligate City to dispose of City Biosolids at any District Facility.

## **B. DISTRICT OBLIGATIONS AND DISPOSAL CONDITIONS**

1. Acceptance/Amount. The District, in its sole discretion, will determine the amount, if any, and rate of City Biosolids it will accept and beneficially use.