

# AGENDA

**Thursday, September 28, 2017 - 10:00 AM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2017-112

**CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

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

1. Presentation and Video of the T2 Program: Technology for Teaching (David Cummings, Clackamas County Technology Services)

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

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

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

1. Approval of an Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Choice Model Services – *Behavioral Health*
2. Approval of a Facility Lease Agreement with North Clackamas School District No. 12 for the Wichita Community Services Building for Women, Infants, and Children (WIC) Program – *Public Health*
3. Approval of an Agency Services Agreement with Youth M.O.V.E. Oregon for a Drop-In Center and Peer Support for Youth/Young Adults in Transition – *Behavioral Health*
4. Approval of a Subrecipient Agreement with LifeWorks Northwest for Evidence-based Parenting Education Classes – *Children, Youth & Families*
5. Approval of Intergovernmental Agreement No.155318 with the State of Oregon, Department of Human Services (DHS), for the operation of the Supplemental Nutrition Assistance Program (SNAP) Employment & Training – *Community Solutions*

**B. Elected Officials**

1. Approval of Amendment No. 2 and Renewal No. 3 for the Contract Documents between Sendit Direct Mail and Fulfillment, Inc. and Clackamas County Clerk's Office for Ballot Mailing and Envelope Storage Services – *Clerk via Procurement*

**C. Public & Government Affairs**

1. Board Order No. \_\_\_\_\_ Approving an Extension of the Cable Television Franchise with Comcast of Oregon II, Inc., Comcast of Tualatin Valley, Inc., and Comcast of Illinois/Ohio/Oregon, LLC

**D. Juvenile Department**

1. Approval of Intergovernmental Agreement and Amendment No. 3 with the State of Oregon for Title IV-E Funding for Youth at Risk
2. Approval of Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Department of Education, Youth Development Division for Juvenile Crime Prevention Funding

**E. Business & Community Services**

1. Board Order No. \_\_\_\_\_ Approving a Tax Foreclosed Property for Declaration as Surplus and Established Minimum Bid Amounts – *Property Resources*

**F. Department of Communications (C-Com)**

1. Approval of an Intergovernmental Agreement Establishing Clackamas County as a fiscal Agent for Grant Funds for Regional 911 Projects

**G. Technology Services**

1. Approval to Enter into a Service Level Agreement between Clackamas Broadband eXchange and the Summit Learning Charter for a Dark Fiber Connection

**H. Tourism & Cultural Affairs**

1. Approval of a Contract with Borders Perrin Norrander (BPN) for Marketing Agency of Record Services for the Tourism & Cultural Affairs Department - *Procurement*

**IV. COUNTY ADMINISTRATOR UPDATE**

**V. 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. [www.clackamas.us/bcc/business.html](http://www.clackamas.us/bcc/business.html)**

September 28, 2017

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the State of Oregon,  
acting by and through its Oregon Health Authority, for Choice Model Services

<b>Purpose/Outcomes</b>	This agreement provides funding to the County for local administration, mental health and addiction services to residents of Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	This is a revenue agreement with a current maximum value of \$1,153,592.68 for the biennium.
<b>Funding Source</b>	Oregon Health Authority – No County General Funds are involved
<b>Safety Impact</b>	None
<b>Duration</b>	Effective October 1, 2017 and terminates June 30, 2019
<b>Previous Board Action</b>	The previous 2015-2017 biennial agreement #7296 was approved by the Board on April 28, 2016, agenda item 042816-A3.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals.</li> <li>2. Ensure safe, healthy and secure communities.</li> </ol>
<b>Contact Person</b>	Mary Rumbaugh, Director- Behavioral Health Division (503) 742-5305
<b>Contract No.</b>	8496

**BACKGROUND:**

The Behavioral Health Division of the Health, Housing and Human Services Department request the approval of an Intergovernmental Agreement with the State of Oregon, acting by and through its' Oregon Health Authority for the operation of Choice Model Services. Choice Model Services are designed to promote effective use of facility-based mental health treatment, increase care coordination and increase accountability at a local and state level. The initiative supports adults with serious and persistent mental illness in the least restrictive environment possible and minimize use of long term institutional care.

This agreement is effective October 1, 2017 and terminates June 30, 2019 with a total maximum value of \$1,153,592.68. This agreement was reviewed and approved by County Counsel September 18, 2017.

**RECOMMENDATION:**

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

We further recommend that Mary Rumbaugh, Director of the Behavioral Health Division, be authorized to act as County Financial Assistance Administrator under the terms of this agreement with authority to sign proposed amendments on behalf of the County to the following exhibits: Exhibit A Statement of Work, Payment and Financial Reporting, Special Terms and Conditions and Exhibit B Standard Terms and Conditions.

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services



**Agreement Number 155513**

**STATE OF OREGON  
INTERGOVERNMENTAL AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](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 Behavioral Health Division  
2051 Kaen Road  
Oregon City, OR 97045  
Attention: Corrie Kraai & Elise Thompson  
Telephone: (503) 742-5989  
Facsimile: (504) 742-5312  
E-mail address: [bhcontracts@co.clackamas.or.us](mailto:bhcontracts@co.clackamas.or.us)  
Secondary E-mail addresses:  
[ckraai@co.clackamas.or.us](mailto:ckraai@co.clackamas.or.us)  
[ethompson@co.clackamas.or.us](mailto:ethompson@co.clackamas.or.us)**

hereinafter referred to as "County."

Work to be performed under this Agreement relates principally to OHA's

**Health Systems Division  
Adult Behavioral Health  
500 Summer Street NE, E86  
Salem, OR 97301  
Agreement Administrator: Michael Oyster or delegate  
Telephone: (503) 945-9813  
Facsimile: (503) 378-8467  
E-mail address: [amhcontract.administrator@state.or.us](mailto:amhcontract.administrator@state.or.us)**

**1. Effective Date and Duration.**

This Agreement, when fully executed by every party, regardless of the date of execution by every party, shall become effective on the date this Agreement has been approved by the Department of Justice or October 1, 2017, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on June 30, 2019. Agreement termination or expiration shall not extinguish or prejudice either party’s right to enforce this Agreement with respect to any default by the other party that has not been cured.

**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: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Terms and Conditions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: [Reserved]
- (7) Exhibit E: Financial Pages

This Agreement constitutes the entire agreement between the parties on the subject matter in it; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

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 precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits, Exhibits B, A, C, and E.

c. For purposes of this Agreement, “Work” means specific work to be performed or services to be delivered by County as set forth in Exhibit A.

**3. Consideration.**

a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is as set forth in Exhibit E, “Financial Pages.” OHA will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.

b. OHA will only pay for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A.

**4. Contractor or Subrecipient Determination.**

In accordance with the State Controller’s Oregon Accounting Manual, policy 30.40.00.102, OHA’s determination is that:

County is a Subrecipient       County is a Vendor       Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement:   N/A

**5. County Data and Certification.**

**a. County Information.** This information is requested pursuant to ORS 305.385.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**County Name (exactly as filed with the IRS):** \_\_\_\_\_

**Clackamas County** (Clackamas County Behavioral Health Division)

**Street address:** 2051 Kaen Rd, Suite 154

**City, state, zip code:** Oregon City, OR 97045

**Email address:** EThompson@co.clackamas.or.us and BHContracts@co.clackamas.or.us

**Telephone:** (503) 742-5989 Facsimile: (504) 742-5312

**Proof of Insurance:** County 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 #:** N/A **Expiration Date:** Ongoing

**b. Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the County hereby certifies under penalty of perjury that:

- (1) The County is in compliance with all insurance requirements of this Agreement and notwithstanding any provision to the contrary, County shall deliver to the OHA Agreement 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, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
- (2) The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County;
- (3) The information shown in this Section 5.a., "County Information," is County's true, accurate and correct information;
- (4) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

- (5) County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (6) County 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) County is not subject to backup withholding because:
  - (a) County is exempt from backup withholding;
  - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified County that County is no longer subject to backup withholding; and
- (8) County Federal Employer Identification Number (FEIN) provided to OHA is true and accurate. If this information changes, County is required to provide OHA with the new FEIN within 10 days.

**EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS.**

**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 Behavioral Health Division**

By:

Marya Rumbaugh  
 Authorized Signature  
Director  
 Title

Marya A Rumbaugh  
 Printed Name  
9/18/17  
 Date

**State of Oregon, acting by and through its Oregon Health Authority**

By:

\_\_\_\_\_  
 Authorized Signature  
 \_\_\_\_\_  
 Title

\_\_\_\_\_  
 Printed Name  
 \_\_\_\_\_  
 Date

**Approved for Legal Sufficiency:**

Approved by Jeffrey J. Wahl, Senior Assistant Attorney General, on September 12, 2017; email in Agreement file.

**OHA Program:**

Approved by Sheryl Derting for Mary Mitchell on September 08, 2017; email in Agreement file.

September 28, 2017

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval for a Facility Lease Agreement with the North Clackamas School District No. 12 for Wichita Community Services Building for Women, Infants, and Children (WIC) program

<b>Purpose/Outcomes</b>	Provide space for a WIC satellite clinic in the Wichita Center for Family and Community building in the North Clackamas School District No. 12
<b>Dollar Amount and Fiscal Impact</b>	Maximum contract value is \$9230.40.
<b>Funding Source</b>	Access to Care – WIC Services Funds. No General Funds are used.
<b>Duration</b>	Effective upon signature and terminates on June 30, 2018
<b>Previous Board Action</b>	The Board of County Commissioners previously reviewed this agreement on May 31, 2012 agenda item 053112-A6.
<b>Strategic Plan Alignment</b>	1. Improved community safety and health 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Dawn Emerick – (503) 655-8479
<b>Contract No.</b>	8255

**Background**

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of a Facility Lease Agreement with the North Clackamas School District No. 12 for space in their Wichita Community Services Building for a WIC satellite clinic.

The WIC satellite clinics allow the County to better serve the community by allowing multiple access points to the County’s WIC services.

The maximum contract value is \$9230.40. This agreement is effective upon signature and expires on June 30, 2018. County Counsel reviewed this Agreement on September 11, 2017.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing, and Human Services



# FACILITIES USE AGREEMENT

## WICHITA COMMUNITY SERVICES BUILDING

CONTRACT: 8255

START DATE: July 01, 2017 (EFFECTIVE UPON SIGNING)

END DATE: June 30, 2018

DISTRICT: North Clackamas School District No. 12 (District)

PARTNER: Name: Clackamas County acting by and through its Health, Housing and Human Services Department, Public Health Division (Tenant)  
Address: 2051 Kaen Road, Suite 367  
Oregon City, Oregon 97045  
Phone: (503)655-8405  
Fax: (503)742-5352  
Contact: Lindsey Butler  
E-Mail: LButler2@clackamas.us

PREMISES: Wichita Center for Family and Community  
Suite/Room/Area Room 6

NATURE OF USE: Office & Social Services (WIC programs)

RENT RATE: \$ 769.20 per calendar month

DEPOSIT AMOUNT: \$ N/A

INSURANCE LIMIT: Not less than \$2,000,000 CSL Commercial General Liability

### GENERAL PROVISIONS B

1. *Term.* The Term is from the Start Date to the End Date, inclusive. No holding over is permitted. This lease may be terminated by either party, upon 30 days' notice.
2. *Rent.* Rent is due on the first day of each month of the Term in advance. If the Term starts or ends with other than a full calendar month, the Rent for that month shall be prorated according to the number of days in said month.
4. *Use.* Tenant shall use the Premises for no other purpose than stated herein without the District's prior written consent. Tenant has a nonexclusive right to the quiet use of the common areas of the Wichita Community Services Building (the Building), including the parking areas, in conjunction with the other tenants on a cooperative basis. Tenant shall not annoy, obstruct, or interfere

with the rights, privileges, and quiet enjoyment of the District or other tenants of the Building. Tenant shall promptly comply with all applicable laws, ordinances, rules, and regulations of any public authority. Tenant shall not conduct any activities that will increase Landlord's insurance rates for any portion of the Building or that will in any manner degrade or damage the condition or reputation of the District or the Building.

5. *Condition of Premises.* Except as otherwise expressly set forth in this Agreement, the Premises is accepted by Tenant in its *as is* condition, subject to any and all patent and latent defects and faults, without reliance upon any representation by District as to the condition or suitability of the Premises for any intended use or purpose by Tenant and without any representation or warranty by District as to its compliance with applicable laws, rules, regulations, and ordinances.

6. *Equipment.* Tenant shall use in the Premises only such equipment as is customary for Tenant's use and shall not overload the floors or electrical circuits of the Premises or Building or alter the plumbing or wiring of the Premises or Building. Landlord must approve in advance the location of and manner of installing any wiring or electrical, heat generating or communication equipment or exceptionally heavy articles.

7. *Exterior Signs and Devices.* No signs, awnings, antennas, or other apparatus shall be painted on or attached to the exterior or common areas of the Building, nor shall anything be placed on any window of the Premises or positioned so as to be visible from outside the Premises, by Tenant without the prior written approval of the District.

8. *Utilities and Services.* Landlord will furnish connection to the public power system and the central heating system during regular business hours. The Premises do not have air conditioning. Interruption of services or utilities shall not be an eviction or disturbance of Tenant's use and possession of the Premises, render the District liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this Agreement. Tenant shall provide its own surge protection for power furnished to the Premises. Landlord will provide janitorial service for the common areas of the Building and the Premises. Janitorial for the premises includes care of the floors, garbage service and an annual deep clean. Tenant will provide for daily cleaning of the premises. The District may impose a surcharge for utility usage exceeding normal office or classroom use.

9. *Maintenance and Repair.* Landlord shall maintain and repair the interior walls, floors, and ceilings; the doors, windows, and related hardware; the light fixtures, switches, and wiring; and, all other repairs to the interior of Premises, reasonable wear and tear excepted. Repair of damage to the Premises or the Building caused by negligent or intentional acts or breach of this Agreement by Tenant, its employees, or invitees, shall be at Tenant's expense. Landlord may erect scaffolding and other apparatus necessary for maintenance and repair. Landlord shall have no liability for interference with Tenant's use because of maintenance and repair. Landlord shall not unreasonably interfere with Tenant's use because of maintenance and repair. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no such interruption or reduction shall be construed as a constructive or other eviction of Tenant. Tenant shall not make any improvements, additions or alterations to the Premises, change the color of the interior, or install any wall or floor covering without prior written approval from the District.

10. *Improvements.* Tenant may, at its expense, make such improvements to the Premises as it deems necessary from time to time for its operations with the prior written approval of the District. At the end of the Term or earlier termination of the tenancy, Tenant shall remove its equipment and improvements and will restore the Premises to substantially the condition existing on the Start Date, except for ordinary wear and tear.

11. *Access.* The District shall have the right to enter upon the Premises at any time to determine Tenant's compliance with this Agreement, to perform necessary services, maintenance, and repairs or alterations to the Building or the Premises. Except in case of emergency, such entry shall be upon one calendar day's advance notice and at such times and in such manner as to minimize interference with the reasonable use of the Premises by Tenant.

12. *Compliance with Laws.* Tenant shall substantially comply with all applicable laws relating to its possession and use of the Premises.

13. *Hazardous Substances.* Tenant shall not cause or permit any Hazardous Substance to be brought upon, spilled, leaked, disposed of, or otherwise released on or under the Premises. Tenant shall defend, indemnify and hold District harmless from any and all claims threatened or made in any way related to Hazardous Substances attributable to Tenant.

14. *Insurance Policies.* Tenant shall procure and thereafter during the Term of the Lease shall continue to carry insurance at Tenant's cost or shall alternatively maintain self-insurance funds in such an amount that is acceptable to Landlord. If Tenant elects to purchase insurance it shall be comprehensive general liability insurance from a responsible company approved by Landlord with limits of not less than \$2,000,000 CSL in a Commercial General Liability Policy (occurrence version). Such insurance or self-insurance fund shall cover all risks arising directly or indirectly out of Tenant's activities on the premises and shall name Landlord as an additional insured if applicable. Certificates or other proof evidencing such insurance or self-insurance fund and bearing endorsements requiring 30 days written notice to Landlord prior to any change or cancellation shall be furnished to Landlord at all times during the Term of this Lease.

15. *Security.* The District shall have no obligation to provide security service or to adopt security measures regarding the Premises, and Tenant shall cooperate with all security measures adopted by the District.

16. *Regulations.* The District shall have the right but shall not be obligated to make, revise, and enforce regulations or policies consistent with this Agreement for the purpose of promoting safety, health, order, harmony, economy, cleanliness, and good service to all tenants of the Building, including moving, use of common areas, prohibition of smoking and other matters of public health, safety, and quiet enjoyment. All such regulations and policies shall be complied with as if part of this Agreement. Without waiving or limiting the generality of the foregoing, Tenant will comply with the District's Policy and Standard Practice statement governing Community Use of School Facilities, as amended. In the event of a conflict between either the Policy or the Standard Practice and this Agreement, this Agreement shall control.

17. *Default.* Any of the following shall constitute a default by Tenant under this Agreement: (a)

Tenant's failure to pay rent or any other charge under this Agreement within 5 days after it is due, or failure to comply with any other term or condition within 10 days of written notice from District specifying the noncompliance; (b) Tenant's insolvency or assignment for the benefit of its creditors; (c) Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer or the appointment of a receiver for all or any portion of District's properties or financial records; (d) vacating or abandoning the Premises; or, (e) disturbing the quiet enjoyment of the Building as District may determine in its sole discretion, which is grounds for immediate termination.

18. *Remedies.* In case of default, the District shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law: (a) the District may terminate the Agreement upon 10 days' notice to Tenant; (b) the District may retake possession of the Premises and may use or relet the Premises without accepting surrender or waiving the right to damages; (c) the District may recover all damages caused by Tenant's default; (d) the District may make any payment or perform any obligation which Tenant has failed to perform, in which case the District shall be entitled to recover from Tenant upon demand all amounts so expended, plus interest from the date of the expenditure at the rate of twelve (12.00%) percent each month, which rate shall apply to past due rent.

19. *Surrender.* On termination of this Agreement, Tenant shall deliver all keys to the District and surrender the Premises vacuumed, swept and free of debris and in the same condition as at the commencement of the Term, subject only to reasonable wear from ordinary use. Tenant shall remove all of its furnishings and trade fixtures that remain its property and repair all damage resulting from such removal. Failure to remove shall be an abandonment of the property, and District may dispose of it in any manner without liability. If Tenant fails to vacate the Premises when required, including failure to remove all of its personal property, the hold-over rent rate shall be one-and-one half times the total rent being charged when the right to occupy expires.

20. *Indemnification.* Subject to applicable provisions in the Oregon Constitution and Oregon Tort Claims Act, Tenant agrees to indemnify District from any claim, loss or liability resulting from or arising out of Tenant's reckless, careless or negligent acts, omissions, services or work performed under this agreement.

21. *Assignment and Subletting.* Tenant may not assign this Agreement or sublet the Premises without District's prior written consent, which the District may withhold at its sole discretion.

22. *Notices.* Notices between the parties relating to this Agreement shall be in writing, effective when delivered, or if mailed, effective on the second day following certified and first class mailing, postage prepaid, to the address for the party stated in this Agreement or to such other address either party may specify by notice to the other. Notice to Tenant may always be delivered to the Premises. Rent shall be payable to the District at the same address and in the same manner, but shall be considered paid only when received.

23. *Litigation Expenses.* 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.

24. *Interpretation of this Agreement.* This Agreement is made entirely within the state of Oregon

and shall be governed by said state's laws. If any provision of this Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired. A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties to this Agreement, any right or remedy of any nature whatsoever. If the Tenant is a corporate entity, the person signing this Agreement is authorized to make this Agreement by the entity's Board. Time is of the essence of this Agreement. The exclusive venue for any disputes shall be in the Clackamas County Circuit Court.

25. The following Exhibits are by this reference incorporated herein:  
Exhibit A - Oregon State Tax Law Provision

26. *Entire Agreement.* This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes any and all prior written and oral agreements and representations and there are no implied covenants or other agreements between the parties except as expressly set forth in this Agreement. Neither District nor Tenant is relying on any representations other than those expressly set forth herein.

TENANT:

CLACKAMAS COUNTY

NORTH CLACKAMAS SCHOOL DISTRICT No. 12

By: \_\_\_\_\_  
Richard Swift

By: \_\_\_\_\_  
Mary Knigge

Title Director

Title: Chief Financial Officer

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

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

EXHIBIT A  
Oregon State Tax Law Provision

North Clackamas School District No. 12 agrees to follow the below stated Oregon Revised Statute regarding tax laws of the State of Oregon:

**“North Clackamas School District No. 12 hereby represents and warrants that it has complied with all applicable tax laws of any political subdivision of the State of Oregon, including but not limited to ORS 305.620 and ORS Chapters 316-318, inclusive. Further, North Clackamas School District No. 12 hereby covenants and agrees that North Clackamas School District No. 12 shall comply with all tax laws of the State of Oregon or a political subdivision of the State during the term of this Agreement. Should North Clackamas School District No. 12 fail to comply with this covenant, it shall be considered a material breach of the contract and Clackamas County shall be entitled, but not required to (i) terminate the Agreement by reason of North Clackamas School District No. 12’s default hereunder, and (ii) seek any and all remedies in law or equity for such breach and/or termination. This remedy is in addition to, and not in replacement of, any other remedies provided for in this Agreement.”**

September 28, 2017

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of an Agency Services Agreement with  
Youth M.O.V.E. Oregon for a Drop-In Center and Peer Supports  
for Youth/Young Adults in Transition

<b>Purpose/Outcomes</b>	This contractor provides a drop-in center and peer supports for youth/young adults in transition within Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	The contract maximum is \$440,000 for the biennium.
<b>Funding Source</b>	Oregon Health Authority 2017-2019 Community Mental Health Program (CMHP) Intergovernmental Agreement. No County general funds are involved.
<b>Duration</b>	Effective upon signature and terminates June 30, 2019
<b>Previous Board Action</b>	The previous agreement #7781 was approved by the Board on December 15, 2016, agenda item 121916-A8
<b>Strategic Plan Alignment</b>	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Mary Rumbaugh, Director – Behavioral Health Division (503) 742-5305
<b>Contract No.</b>	8148

**BACKGROUND:**

The Behavioral Health Division of the Health, Housing and Human Services Department requests the approval of an Agency Services Agreement with Youth M.O.V.E. Oregon for a drop-in center and peer support for youth and young adults in transition within Clackamas County. The drop-in center specifically provides one-on-one person-centered planning (a set of approaches designed to assist someone to plan their life and supports). Youth M.O.V.E. Oregon provides services that support individuals working toward addiction recovery and/or mental wellness.

This contract is effective upon signature and terminates June 30, 2019 with a value not to exceed \$440,000. County Counsel reviewed and approved this agreement on August 29, 2017.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing and Human Services Department

**AGENCY SERVICES CONTRACT  
Contract # 8148**

This Agency Service Contract, herein called "Contract," is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY," and YOUTH M.O.V.E. OREGON, LLC, hereinafter called "AGENCY."

**CONTRACT**

**1.0 Engagement**

COUNTY hereby engages AGENCY to provide a **drop-in center and peer supports for youth/young adults in transition** within Clackamas County as more fully described in **Exhibit B**, Scope of Work, attached hereto and incorporated herein.

**2.0 Term**

Services provided under the terms of this Contract shall commence **upon signature and shall terminate June 30, 2019** unless terminated by one or both parties as provided for in paragraph 6.0 below.

**3.0 Compensation and Fiscal Records**

3.1 Compensation. COUNTY shall compensate AGENCY as specified in **Exhibit C: Compensation**. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

Maximum Contract payment shall not exceed **\$440,000.00**.

AGENCY shall **submit an itemized invoice by the 10<sup>th</sup> of the month** following the month services were performed. The invoice shall include the contract # **8148**, list the dates of service, the costs, and the total amount due for all service provided during the month. Invoices shall be submitted electronically to:

[BHAP@co.clackamas.or.us](mailto:BHAP@co.clackamas.or.us) and  
[alinfoot@co.clackamas.or.us](mailto:alinfoot@co.clackamas.or.us)

When submitting electronically, designate AGENCY name and contract #**8148** in the subject of the e-mail.

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

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

3.3 Financial Records. AGENCY and its subcontractors shall maintain complete and legible financial records pertaining in whole or in part to this Contract. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines. Financial records and supporting documents shall be retained for at least six (6) years or such period as may be required by applicable law, following final payment made under this Contract or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, AGENCY shall repay the amount of the excess to COUNTY.

3.4 Access to Records and Facilities. COUNTY, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents,



papers and records of AGENCY that are directly related to this Contract, the funds paid to AGENCY hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, and transcripts. In addition, AGENCY shall permit authorized representatives of COUNTY and State of Oregon to perform site reviews of all services delivered by AGENCY hereunder.

3.4.1 AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this Contract available to COUNTY upon request.

3.4.2 COUNTY may conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this Contract. AGENCY agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of AGENCY which are pertinent to this Contract to ensure appropriate expenditure of funds under this Contract. COUNTY shall monitor compliance with AGENCY's financial reporting and accounting requirements.

3.4.3 AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy, the independence rules contained within Governmental Auditing Standards (1994 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.

3.4.4 AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.

#### **4.0 Manner of Performance**

4.1 Compliance with Applicable Laws and Regulations and Special Federal Requirements. AGENCY shall comply with all Federal, State, local laws, rules, and regulations applicable to the work to be performed under this Contract, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations incorporated herein by this reference. AGENCY shall comply with Oregon Administrative Rule (OAR) 410-120-1380, which establishes the requirements for compliance with Section 4751 of Omnibus Budget Reconciliation Act (OBRA) 1991 and ORS 127-649, Patient Self-Determination Act.

4.1.1 AGENCY 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 AGENCY'S warranty, in this Contract that AGENCY 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:

- i. Termination of this Contract, in whole or in part;
- ii. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
- iii. 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 AGENCY'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.

4.2 Precedence. Where there is a requirement listed both in the main boilerplate of this Contract and in an exhibit, the exhibit shall take precedence.

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

4.4 Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of COUNTY, State, or Federal Government as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

4.5. Tax Laws. The AGENCY represents and warrants that, for a period of no fewer than six (6) calendar years preceding the effective date of this Contract, has faithfully complied with:

- i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- ii. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
- iii. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
- iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

## 5.0 General Conditions

5.1 Indemnification. AGENCY 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 AGENCY's negligent or willful acts or those of its employees, agents, volunteers, or those under AGENCY's control. AGENCY is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to AGENCY's actions, employees, agents, volunteers, or otherwise with respect to those under its control.

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

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

5.2 Insurance. COUNTY shall enforce AGENCY compliance with the insurance requirements outlined herein, and shall take all reasonable steps to enforce such compliance. Examples of reasonable steps include issuing stop work orders until the insurance is in full force, terminating the Contract as permitted herein, or pursuing legal action to enforce such requirements. During the term of this Contract, AGENCY shall maintain in force, at its own expense, each insurance noted below:

### 5.2.1 Commercial General Liability.

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this Contract, 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, elected officials, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Contract and personal injury liability, products and completed operations. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

5.2.2 Automobile Liability.

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain at AGENCY expense, and keep in effect during the term of this Contract, 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**, or AGENCY shall obtain at AGENCY expense, and keep in effect during the term of the Contract, Personal Auto Coverage. The limits shall be no less than **\$250,000/occurrence, \$500,000/aggregate, and \$100,000** property damage.

5.2.3 Professional Liability.

Required by COUNTY       Not required by COUNTY

If this Contract involves the delivery of professional services, AGENCY shall obtain and furnish the COUNTY evidence of Professional Liability Insurance in the amount of **not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate** for malpractice or errors and omissions coverage for the protection of the COUNTY, its officers, elected officials and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Contract. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Additional Insured Provisions. All required insurance, other than Professional Liability, and Workers' Compensation, shall include "**Clackamas County, its agents, elected officials, officers, and employees**" and "**the State of Oregon and its officers, employees and agents**" as additional insureds, but only with respect to AGENCY's activities performed under this Contract.

5.2.5 Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without thirty (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 days-notice of cancellation provision shall be physically endorsed on to the policy.

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

5.2.7 Certificates of Insurance. As evidence of the insurance coverage required by this Contract, AGENCY shall furnish a Certificate of Insurance to COUNTY. The COUNTY and its officers must be named as an additional insured on the Certificate of Insurance. No Contract shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

Certificate holder should be:

**Clackamas County, 2051 Kaen Road, Oregon City, Oregon 97045**

Certificates of Insurance should be submitted electronically to:

**BHContracts@co.clackamas.or.us**

Or by mail to:

**Clackamas County Behavioral Health Division**  
**Attn: Contracts**  
**2051 Kaen Road, Suite 154**  
**Oregon City, OR 97045**

5.2.8 Primary Coverage Clarification. AGENCY 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.

5.2.9 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 Contract.

5.2.10 Waiver of Subrogation. AGENCY agrees to waive their rights of subrogation arising from the work performed under this Contract.

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

5.3 Governing Law; Consent to Jurisdiction. This 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. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this Contract consents to the in personal jurisdiction of said courts.

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

5.5 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 or 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.

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

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

5.8 Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.

5.9 Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this Contract:

5.9.1 AGENCY shall:

- i. Make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the performance of the work provided for in this Contract.
- ii. Pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this Contract.
- iii. Not permit any lien or claim to be filed or prosecuted against COUNTY on account of any labor or material furnished.
- iv. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

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

5.9.3 No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:

- i. 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;
- ii. for all overtime in excess of ten (10) hours in any one day or forty (40) hours in any one week when the work week is four consecutive days, Monday through Friday; and
- iii. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

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

5.9.5 As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law or contract for the purpose of providing or paying for the services.

5.9.6 Workers' Compensation. AGENCY, if it is an employer of one or more workers subject to workers' compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of **\$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.**

5.10 Ownership of Work Product. All work products of the AGENCY which result from this Contract are the exclusive property of COUNTY.

5.11 Integration. This Contract contains the entire Contract between COUNTY and AGENCY and supersedes all prior written or oral discussions or Contracts.

6.12 Successors in Interest. The provisions of this Contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

## 6.0 Termination

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

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

6.2.1 Terms of the 2017-2019 Intergovernmental Agreement for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services Agreement (CMHP) #153117 are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding authorized by this Contract.

6.2.2 The termination, suspension or expiration of the 2017-2019 Intergovernmental Agreement for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services Agreement (CMHP) #153117.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The Contract may be modified to accommodate a reduction in funds.

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

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

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

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

6.2.8 Debarment and Suspension. COUNTY shall not permit any person or entity to be an AGENCY if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). 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. COUNTY shall require all AGENCYs with awards that exceed the simplified acquisition threshold to provide the required certification regarding their exclusion status and that of their principals prior to award.

6.3 Notice of Default. COUNTY may also issue a written notice of default (including breach of Contract) to AGENCY and terminate the whole or any part of this Contract if AGENCY substantially fails to perform the specific provisions of this Contract. The rights and remedies of COUNTY related to default (including breach of Contract) by AGENCY shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

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

## 7.0 Notices

IF TO AGENCY:  
Youth M.O.V.E Oregon  
72A Centennial Loop, Suite 150  
Eugene, OR 97401

IF TO COUNTY:  
Clackamas County Behavioral Health Division  
Attention: Contract Administration  
2051 Kaen Road, #154  
Oregon City, OR 97045

This Contract consists of seven (7) sections plus the following exhibits which by this reference are incorporated herein:

- Exhibit A: Definitions
- Exhibit B: Scope of Work
- Exhibit C: Compensation
- Exhibit D: CMHP Required Provider Contract Provisions
- Exhibit E: CMHP Required Federal Terms and Conditions
- Exhibit F: Reporting Requirements

(signature page follows)

**SIGNATURE PAGE TO AGENCY SERVICES CONTRACT**

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

**YOUTH M.O.V.E. OREGON**

By:   
\_\_\_\_\_  
(Martin Rafferty, Executive Director)

8/30/17  
\_\_\_\_\_  
Date

72A Centennial Loop, Suite 150  
\_\_\_\_\_  
Street Address

Eugene, Oregon 97401  
\_\_\_\_\_  
City / State / Zip

(541) 606-1514 (541) 349-9226  
\_\_\_\_\_  
Phone / Fax

**CLACKAMAS COUNTY**

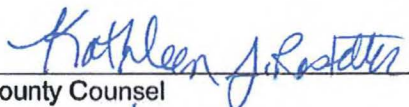
Commissioner: Jim Bernard, Chair  
Commissioner: Sonya Fischer  
Commissioner: Ken Humberston  
Commissioner: Paul Savas  
Commissioner: Martha Schrader

**Signing on Behalf of the Board:**

\_\_\_\_\_  
Richard Swift, Director  
Health, Housing & Human Service Department

\_\_\_\_\_  
Date

**Approved to Form:**

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

8/29/17  
\_\_\_\_\_  
Date



September 28, 2017

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Subrecipient Agreement with LifeWorks Northwest  
for Evidence-based Parenting Education Classes

<b>Purpose/Outcomes</b>	Provide parenting education classes, enhance teaching skills and competencies of parents to promote child social/emotional well-being and kindergarten readiness.
<b>Dollar Amount and Fiscal Impact</b>	This Agreement has a maximum value of \$15,000 and no match is required. No County General Funds are involved.
<b>Funding Source</b>	Oregon Community Foundation – Oregon Parent Education Collaborative
<b>Duration</b>	Effective August 1, 2017 and terminating June 30, 2018
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF-8461

**BACKGROUND:**

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a Subrecipient Agreement with LifeWorks Northwest to provide parent education and skills training to a minimum of 24 parents of children ages 0-6 years. Classes will improve the quality of parent/child interaction, support healthy child development, and kindergarten readiness.

This Agreement has a maximum value of \$15,000 and has been reviewed and approved by County Counsel. No County General funds are involved and no match is required. It is effective upon signature for services starting August 1, 2017 and terminating June 30, 2018.

**RECOMMENDATION:**

Staff recommends Board approval of this Agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

**CLACKAMAS COUNTY, OREGON**  
**LOCAL SUBRECIPIENT GRANT AGREEMENT CYF-8461**

Program Name: *LifeWorks Northwest OPEC Parenting Education*

Program/Project Number: CYF-8461

This Agreement is between Clackamas County, Oregon, acting by and through its Health, Housing & Human Services Children, Youth & Families Division (COUNTY) and LifeWorks Northwest (SUBRECIPIENT), an Oregon Non-profit Organization.

**COUNTY Data**

<b>Grant Accountant: Michael Morasko</b>	<b>Program Coordinator: Chelsea Hamilton</b>
Clackamas County Finance 2051 Kaen Rd. Oregon City, OR 97045 503-742-5435 mmorasko@clackamas.us	Clackamas County Children, Youth & Families Division 150 Beaver Creek Rd. Oregon City, OR 97045 503-650-5682 chamilton@clackamas.us

**SUBRECIPIENT Data**

<b>Finance/Fiscal Representative: Cynthia Asai</b>	<b>Program Representative: Marylee Stahl</b>
Lifeworks NW 14600 NW Cornell Rd Portland, OR 97229 503-645-3581 Cynthia.asai@lifeworksnw.org	Lifeworks NW 14600 NW Cornell Rd Portland, OR 97229 503-332-0984 marylees@lifeworksnw.org
FEIN: 93-0502822	

**RECITALS**

1. LifeWorks Northwest (SUBRECIPIENT), a local Nonprofit 501(c)(3) organization, was chosen by CYF through a competitive process to provide parenting classes to parents with children (prenatal to age six) to increase parenting skills and knowledge of healthy child development and to promote early learning and readiness for kindergarten. SUBRECIPIENT enhances access to this service across the county and has demonstrated capacity to deliver evidence-based parenting programs.
2. SUBRECIPIENT will conduct one Spanish series of *Haga de la Paternidad un Placer*, one English class series of *Active Parenting Now* and one English class series of *Make Parenting A Pleasure* with a minimum of 24 unduplicated parents (16 English and 8 Spanish-speaking) by June 30, 2018. Parents will expand their knowledge about child development, build effective parenting skills, and strengthen parent-child relationships, resulting in enhanced children's health, development, and school readiness.
3. The Oregon Community Foundation – Oregon Parenting Education Collaborative (OPEC), which funds this Agreement, is a multi-year initiative to expand access to high-quality parenting programs and develop a stronger and more coordinated parenting education system in order to reach Clackamas County parents with young children, and especially those who are English language learners, low income, living in rural communities, and/or are otherwise traditionally underserved, lack adequate access to evidence-based parenting education.
4. 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, 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 project incurred no earlier than August 1, 2017 and not later than June 30, 2018, 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 Statement of Program Objectives. 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 Community Foundation – Oregon Parenting Education Collaborative Grant Agreement that is the source of the grant funding.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the Oregon Parenting Education Collaborative issued to the COUNTY by the Oregon Community Foundation. The maximum, not to exceed, grant amount that the COUNTY will pay on this Agreement is \$15,000.
5. **Disbursements.** This is a cost reimbursement grant and disbursements will be made monthly 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 terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.
8. **Funds Available and Authorized.** The 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 the COUNTY receiving appropriations or other expenditure authority sufficient to allow the 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. **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 may not transfer grant funds between budget lines without the prior written approval of the COUNTY. 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 Oregon Community Foundation Oregon Parenting Education Collaborative.
- 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 submitted on the templates provided and 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, the Oregon Community Foundation, and their 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 the 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, 2018), 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 the 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.

#### 11. 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.

#### 12. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY, its elected officials, officers, employees and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including 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.
- b) **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 elected officials, officers, employees and agents. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. The policy(ies) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

- 2) **Commercial Automobile Liability.** 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 the 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 the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this 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 elected officials, officers, employees and agents" as an additional insured, but only with respect to SUBRECIPIENT's activities under this Agreement.
- 6) **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.
- 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. 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.
- 9) **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.
- 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.
- 11) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.

- c) **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 the COUNTY.
- d) **Independent Status.** SUBRECIPIENT is independent of the COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of the COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind the COUNTY in any transaction or activity.
- e) **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.
- f) **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 the 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.
- g) **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.
- h) **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.
- i) **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.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

(Signature Page Follows)

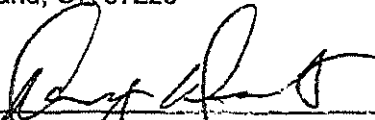
SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT

(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

**SUBRECIPIENT**

LifeWorks Northwest  
14600 NW Cornell Rd.  
Portland, OR 97229

By:   
Mary Monnat, Executive Director

Dated: 9/18/17

**CLACKAMAS COUNTY**

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

**Signing on behalf of the Board:**

By: \_\_\_\_\_  
Richard Swift, Director  
Health, Housing & Human Services

Dated: \_\_\_\_\_

Approved to form

By:   
County Counsel

Dated: 29 August 2017

By:   
Rodney A. Cook, Director  
Children, Youth & Families Division

Dated: 9/19/17

- Exhibit A-1: Scope of Work
- Exhibit A-2: Work Plan Quarterly Report
- Exhibit A-3: Demographic Report
- Exhibit A-4: Client Feedback Survey and Report
- Exhibit B: Program Budget
- Exhibit C: Performance Reporting Schedule
- Exhibit D-1: Request for Reimbursement
- Exhibit D-2: Monthly Activity Report



September 28, 2017

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement #155318 with the  
State of Oregon, Department of Human Services (DHS), for the operation  
of the Supplemental Nutrition Assistance Program (SNAP) Employment & Training

<b>Purpose/Outcomes</b>	To administer Supplemental Nutrition Assistance Program (SNAP) Employment & Training services to Food Stamp participants.
<b>Dollar Amount and Fiscal Impact</b>	This intergovernmental provides \$26,831.47 in revenue.
<b>Funding Source</b>	State of Oregon. No County General Funds are involved.
<b>Duration</b>	Effective October 1, 2017 and terminates on September 30, 2022. Funding listed is for one year and is renewable for four additional years.
<b>Previous Board Action</b>	No previous board action.
<b>Contact Person</b>	Maureen Thompson, phone 503-655-8842
<b>Contract No.</b>	H3S / CSCC 8501

**BACKGROUND:**

Community Solutions for Clackamas County (CSCC), a division of Health, Housing and Human Services Department requests the approval of the Intergovernmental Agreement with the State of Oregon, Department of Human Services to serve participants of the Supplemental Nutrition Assistance Program (SNAP). Clientele will be referred to CSCC by State DHS to receive the training, work experience, employment placement and support services required to obtain and retain employment.

This contract has been reviewed and approved by County Counsel on September 14<sup>th</sup>, 2017.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

Agreement Number 155318



**STATE OF OREGON  
INTERGOVERNMENTAL AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](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 Department of Human Services, hereinafter referred to as "DHS" and

**Clackamas County  
Acting by and through its Department of Health, Housing and Human Services  
Community Solutions for Clackamas County division  
112 11<sup>th</sup> Street  
Oregon City, OR 97045  
Contact: Scott Vandecoevering  
Telephone: (503) 655-8844  
Facsimile: (503) 655-8841  
E-mail address: [ScottVan@clackamas.us](mailto:ScottVan@clackamas.us)**

hereinafter referred to as "County."

Work to be performed under this Agreement relates principally to DHS'

**Office of Self-Sufficiency Programs  
Supplemental Nutrition Assistance Program (SNAP)  
500 Summer Street E48  
Salem, Oregon 97301  
Agreement Administrator: Belit Burke, or delegate  
Telephone: (503) 947-5389  
E-mail address: [Belit.Burke@state.or.us](mailto:Belit.Burke@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 Administrative Services and Department of Justice or on October 1, 2017, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall

expire on **September 30, 2022**. Agreement termination shall not extinguish or prejudice DHS' right to enforce this Agreement with respect to any default by County 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: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Terms and Conditions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Required Federal Terms and Conditions

This Agreement constitutes the entire agreement between the parties on the subject matter in it; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

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 precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits, Exhibits D, A, B, and C.

c. For purposes of this Agreement, "Work" means specific work to be performed or services to be delivered by County as set forth in Exhibit A.

**3. Consideration.**

a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is \$26,381.47. DHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.

b. DHS will pay only for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A.

**4. Vendor or Sub-Recipient Determination.**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, DHS' determination is that:

County is a sub-recipient     County is a vendor     Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 10.561

5. County Data and Certification.

- a. **County Information.** County shall provide information set forth below. This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

County Name (exactly as filed with the IRS): Clackamas County

Street address: 2051 Kaen Rd.

City, state, zip code: Oregon City, OR 97045

Email address: maureen.tho@clackamas.us

Telephone: (503) 655-8842 Facsimile: (503) 655-8841

**Proof of Insurance:**

Workers' Compensation Insurance Company: Self-insured

Policy #: N/A Expiration Date: N/A

The above information must be provided prior to Agreement approval. County shall provide proof of Insurance upon request by DHS or DHS designee.

- b. **Certification.** The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County. Without limiting the generality of the foregoing, by signature on this Agreement, the County hereby certifies that:

- (1) The information shown in this Section 5., County Data and Certification, is County's true, accurate and correct information;
- (2) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (3) County and County'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: **Error! Hyperlink reference not valid.** <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;

- (4) County 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/>; and
  - (5) County is not subject to backup withholding because:
    - (a) County is exempt from backup withholding;
    - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
    - (c) The IRS has notified County that County is no longer subject to backup withholding.
- c. County is required to provide its Federal Employer Identification Number (FEIN). By County's signature on this Agreement, County hereby certifies that the FEIN provided to DHS is true and accurate. If this information changes, County is also required to provide DHS with the new FEIN within 10 days.

**EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS**

**6. Signatures.**

**Community Solutions for Clackamas County**  
By:

---

Authorized Signature	Title	Date
----------------------	-------	------

**State of Oregon, acting by and through its Department of Human Services**  
By:

---

Authorized Signature	Title	Date
----------------------	-------	------

**Approved for Legal Sufficiency:**

Not Required per OAR 137-045-0030(1)(a)  

---

Assistant Attorney General Date



# CLACKAMAS COUNTY

## Office of County Clerk

Board of County Commissioners  
Clackamas County

SHERRY HALL  
1710 Red Soils Ct., Ste.100  
Oregon City, OR 97045  
503.722.6086  
FAX 503.655.8461

Members of the Board:

### Approval of Amendment #2 / Renewal #3 for the Contract Documents with Sendit Direct Mail and Fulfillment, Inc. for Ballot Mailing and Envelope Storage Services

<b>Purpose/Outcome</b>	The purpose of the Amendment #2 / Renewal #3 is to utilize the final two renewals available under this contract.										
<b>Fiscal Impact</b>	<table border="0"> <tr><td>Original Contract</td><td>\$75,000</td></tr> <tr><td>Renewal #1</td><td>\$75,000</td></tr> <tr><td>Amendment #1 / Renewal #2</td><td>\$75,000</td></tr> <tr><td>Amendment #2 / Renewal #3</td><td>\$150,000 (two one-year terms)</td></tr> <tr><td><b>Contract Total</b></td><td><b>\$375,000</b></td></tr> </table>	Original Contract	\$75,000	Renewal #1	\$75,000	Amendment #1 / Renewal #2	\$75,000	Amendment #2 / Renewal #3	\$150,000 (two one-year terms)	<b>Contract Total</b>	<b>\$375,000</b>
Original Contract	\$75,000										
Renewal #1	\$75,000										
Amendment #1 / Renewal #2	\$75,000										
Amendment #2 / Renewal #3	\$150,000 (two one-year terms)										
<b>Contract Total</b>	<b>\$375,000</b>										
<b>Funding Source</b>	The Clerk Elections Division will pay the contract as invoiced by Sendit Direct Mail and Fulfillment, Inc. not to exceed \$75,000.00 per fiscal year. The funding string is 100-0106-00014-431001.										
<b>Duration</b>	July 1, 2017 – June 30, 2019 (Amendment #2 / Renewal #3)										
<b>Strategic Plan Alignment</b>	Build public trust through good government.										
<b>Previous Action</b>	Board of County Commissioners approved the original contract.										
<b>Contact Person</b>	Sherry Hall, Clackamas County Clerk, (503) 722-6086 Anita Humphreys, Administrative Assistant										

#### Background:

This Amendment #2 / Renewal #3 utilizes the two remaining renewals available on the contract. Clackamas County Clerk Election division is seeking Board approval on Amendment #2 / Renewal #3. The new contract expiration date is June 30, 2019.

The original contract, Amendment #2 / Renewal #3 has been reviewed and approved by County Counsel.

#### Recommendation:

Staff recommends the Board approve Amendment #2 / Renewal #3 for ballot mailing and envelope storage for Clackamas County Clerk Election Division.

Respectfully Submitted,

Sherry Hall  
Clackamas County Clerk

\*Placed on the \_\_September 28, 2017\_\_\_\_ Agenda by the Procurement Division

**AMENDMENT #2 / RENEWAL #3**

**FOR THE CONTRACT DOCUMENTS WITH SENDIT DIRECT MAIL AND FULFILLMENT, INC. FOR BALLOT MAILING AND ENVELOPE STORAGE SERVICES**

This Amendment #2 / Renewal #3 is entered into between Sendit Direct Mail and Fulfillment, Inc (“Contractor”) and the Clackamas County (“County”) and it shall become part of the Contract documents entered into between both parties on December 30, 2013.

The Purpose of the Amendment #2 / Renewal #3 is to make the following changes to the Contract:

1. Section I. **SCOPE** is hereby changed as follows:  
The Contract expiration date is hereby changed from June 30, 2017 to **June 30, 2019**. County is exercising the option to renew the last two (2), one-year optional terms available on the Contract. County and Contractor acknowledge that services may have been performed after the termination date and desire to affirm and pay for such work pursuant to this Amendment.
  
2. Section I. **COMPENSATION** is hereby changed as follows:  
The maximum fiscal year Compensation authorized under this Contract is **\$75,000.00**. Fiscal year is defined as July 1 to June 30. The maximum Compensation authorized for the life of this contract shall not exceed \$375,000.00.  
  

Original Contract Amount	\$ 75,000.00
Renewal #1	\$ 75,000.00
Amendment #1 / Renewal #2	\$ 75,000.00
<b>Amendment #2 / Renewal #3</b>	<b>\$ 150,000.00 (two one-year terms)</b>
<b>Contract Total</b>	<b>\$ 375,000.00</b>
  
3. Retroactive Approval: The County and Contractor hereby reaffirm all prior approvals and actions relating to this Contract, including all Renewals and Amendments.

**SIGNATURE PAGE FOLLOWS**

This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

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 #2 / Renewal #3, effective upon the date of the last signature below.

Sendit Direct Mail and Fulfillment Inc.  
PO Box 30177  
Portland OR 97294

Clackamas County Board of County  
Commissioners by:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Name / Title (Printed)

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

006698-95  
Oregon Business Registry #

Approved as to Form:

DBC / Oregon  
Entity Type / State of Formation

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

\_\_\_\_\_  
Date





September 28, 2017

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval an Extension of the Cable Television Franchise with  
Comcast of Oregon II, Inc., Comcast of Tualatin Valley, Inc., and  
Comcast of Illinois/Ohio/Oregon, LLC.

<b>Purpose/Outcome</b>	Extend current cable television franchises to allow time for evaluation and negotiations.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	N/A
<b>Duration</b>	Effective September 30, 2017 through September 28, 2018
<b>Previous Board Action/Review</b>	The original franchise agreements were approved by the BCC in February 2010, and extended in March 2015, October 2015, March 2016, September 2016, and March 2017 for 6 month periods per extension.
<b>Strategic Plan Alignment</b>	Building trust through good government.
<b>Contact Person</b>	Gary Schmidt, Public and Government Affairs, 503-742-5908
<b>Contract No.</b>	N/A

**BACKGROUND:**

Comcast of Oregon II, Inc., Comcast of Tualatin Valley, Inc. and Comcast of Illinois/Ohio/Oregon, LLC. (Comcast collectively) Cable Franchise Permit Agreements will expire on September 30, 2017, but the respective contracts have continued under the same terms and conditions pursuant to applicable law unless and until the County issues a termination of franchise notice. Comcast is currently serving over 20,000 subscribers in unincorporated areas of Clackamas County and the County is currently negotiating a renewal of the cable franchises with Comcast.

This extension, if granted, would not affect either party's rights in the renewal process and includes a provision to preserve the County's right to retroactive PEG funding negotiated in the renewal. The County will evaluate Comcast's legal, technical and financial qualifications to operate the cable system, as well as the community's needs, in its determination of whether to renew the franchise and on what terms and conditions.

This cable franchise agreement extension has been reviewed and approved by County Counsel.

Page 2  
Staff Report - Comcast Extension  
September 28, 2017

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the extension of the franchise permit agreements to assure that the terms of the current franchise agreements continue to be met through September 28, 2018.

Respectfully submitted,

Gary Schmidt, Director  
Public and Government Affairs

In the matter of approving an  
Extension of the cable television  
Franchise with Comcast of  
Oregon II, Inc., Comcast of Tualatin  
Valley, Inc., and Comcast of  
Illinois/Ohio/Oregon, LLC

ORDER NO.

This matter coming before the Clackamas County Board of Commissioners at its regularly scheduled public meeting on September 28, 2017 to consider approving an extension of the cable television franchises with Comcast of Oregon II, Inc., an Oregon corporation, Comcast of Tualatin Valley, Inc., an Oregon corporation, and Comcast of Illinois/Ohio/Oregon, LLC, a Delaware limited liability company (collectively, the "Franchisees").

**WHEREAS**, Comcast of Oregon II, Inc., Comcast of Tualatin Valley, Inc., and Comcast of Illinois/Ohio/Oregon, LLC hold cable franchises with Clackamas County, each of which will expire on September 30, 2017. The respective contracts, which originally expired on March 22, 2015, have continued via extensions under the same terms and conditions pursuant to applicable law unless and until the County issues a termination of franchise notice; and

**WHEREAS**, County staff and representatives of the Franchisees began meeting in the fall of 2014 to negotiate open issues regarding the renewal of the applicable franchises; and

**WHEREAS**, the amount of time required to conclude negotiations and allow for public review of new franchise agreements will extend beyond the current expiration date; and

**WHEREAS**, it is in the public interest to extend the current franchises for an additional period of time to accommodate the renewal process and avoid a potentially unnecessary disruption of service to affected residents.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT** the franchises granted to Comcast II of Oregon, Inc., Comcast of Tualatin Valley, Inc., and Comcast of Illinois/Ohio/Oregon, LLC shall be extended until and including September 30, 2018, and that all rights and obligations provided the parties under the franchise agreement shall remain in full force and effect during that period, including the rights of the parties under the Cable Communications Policy Act of 1992 and the Telecommunications Act of 1996. Neither Comcast nor the County shall assert any claim, denial or defense based upon the original expiration date of the Franchise Agreement, excepting therefrom that the County may assert in negotiations that any increase in PEG funding included in the new franchise agreement shall include the time period covered by this extension. This extension of franchises is explicitly conditioned upon written acceptance thereof by each of the Franchisees.

DATED THIS \_\_\_\_\_ DAY OF SEPTEMBER, 2017.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

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



JUVENILE DEPARTMENT  
JUVENILE INTAKE AND ASSESSMENT CENTER  
2121 KAEN ROAD | OREGON CITY, OR 97045

September 28, 2017  
Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement and Amendment No. 3  
With State of Oregon for Title IVE Funding**

<b>Purpose/ Outcomes</b>	This IGA provides reimbursement dollars through the federal Title IVE Reimbursement Program for reimbursement of both maintenance and administrative claims provided by the Juvenile Dept. to the State of Oregon
<b>Dollar Amount and Fiscal Impact</b>	State of Oregon will provide up to \$5,200,000.00 to the Department. There are no general fund dollars required.
<b>Funding Source</b>	Department of Justice through Title IVE
<b>Duration</b>	Effective through September 30, 2019.
<b>Previous Board Action</b>	July 21, 2106 Agenda Item E-2
<b>Strategic Plan Alignment</b>	Ensure safe, healthy, and secure communities: The revenue received from this contract will provide funds to be reinvested in the County Juvenile Department for programs and services for juvenile justice youth.
<b>Contact Person</b>	Lisa Krzmarzick, Sr. Administrative Analyst 503-655-8788

**BACKGROUND:**

State of Oregon through the Department of Human Services have worked collaboratively with the County Juvenile Department to bring Title IVE funding to the county. This program allows reimbursement of costs to the Juvenile Department for services we already render to youth at risk of being placed out of their home. The reimbursement allows hard costs of shelter care beds and assessment and evaluation bed costs to be partially reimbursed.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement, and Amendment No. 3.

Respectfully submitted,

Christina L. McMahan, Director  
Juvenile Department



Agreement Number 145855

**AMENDMENT TO  
STATE OF OREGON  
INTERGOVERNMENTAL AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](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 is amendment number **03** to Agreement Number **145855** between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as “**DHS**” and

**Clackamas County  
2121 Kaen Road  
Oregon City, Oregon 97045  
Attention: Lisa Krzmarzick  
Telephone: (503) 655-8342  
Facsimile: (503) 655-8448  
Email: [lkrzmarzick@co.clackamas.or.us](mailto:lkrzmarzick@co.clackamas.or.us)**

hereinafter referred to as “**County**.”

1. Upon signature by all applicable parties, this Amendment shall be effective on the later of (a) **September 30, 2017** or (b) when required, the date this Amendment has been approved by the Department of Justice, regardless of the date the Amendment is actually signed by all other parties.
2. The Agreement is hereby amended as follows. Language to be deleted or replaced is [~~bracketed and struck through~~]; new language is **underlined and bold**:
  - a. **Section 1 “Effective Date and Duration”** of the Agreement is hereby amended to extend the Agreement end date, as follows:

“Upon the date this Agreement is approved by the Department of Justice and signatures have been obtained by all applicable parties, this Agreement shall be effective on October 1, 2013. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on [~~September 30, 2017~~] **September 30, 2019**. Agreement termination or expiration shall not extinguish or prejudice either party’s right to enforce this Agreement with respect to any default by the other party that has not been cured.”

- b. **Section 3 “Consideration,” subsection (a)** of the Agreement is hereby amended to increase the total not-to-exceed amount, as follows:
- “The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is [~~\$2,600,000.00~~] **\$5,200,000.00**. DHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.”
- c. Effective October 1, 2017, **Exhibit A, Part 1 “Statement of Work,” section 2 “Services to be provided by County,” subsection (e), paragraph 1** of the Agreement is hereby amended, as follows:
1. Report data about Title IV-E eligible children to DHS for inclusion in the DHS’ National Adoption and Foster Care Analysis and Reporting System (“AFCARS”) submissions to the DHHS. County shall utilize the OR-Kids system to report AFCARS data for eligible youth. [~~County and DHS will develop a process and once the process is finalized an addendum will be added to this document describing the process and roles of each party.~~]
- d. Effective October 1, 2017, **Exhibit A, Part 2 “Payment and Financial Reporting,” section 1 “Payment Provisions,” subsection (b)** of the Agreement is hereby amended, as follows:
- b. DHS will determine the amounts of reimbursement quarterly and will submit payments to County within sixty (60) calendar days [~~of the end of each quarter~~] **from receipt of a signed invoice.**
- e. Effective October 1, 2017, **Exhibit A, Part 2 “Payment and Financial Reporting,” section 1 “Payment Provisions,” subsection (d), paragraph 7** of the Agreement is hereby amended, as follows:
7. County shall not use expenditures which are claimed under Title IV-E Foster Care as match or as maintenance of effort under any other federal program. **Each claim submitted by the County will include the language certifying the invoice, as follow: “I certify the public funds are not federal funds, and are not used to match or provide maintenance of effort for other federal funds. The record documenting these public fund expenditures are on file and are available for review by the state and/or federal government upon request.” The signator of the claim shall have authority from the County to make such certification.**
- f. Effective October 1, 2017, **Exhibit A, Part 2 “Payment and Financial Reporting,” section 1 “Payment Provisions,” subsection (d), paragraph (10)** of the Agreement is hereby amended, as follows:
- d. DHS currently provides the Department of Justice, Division of Child Support (“DCS”), Oregon’s Title IV-D Agency, with data indicating Title IV-E eligibility for all children in care. Children for whom County seeks reimbursement will not be included in DHS’ data. The nature of the County business practice does not allow enough time for the support order

to be created. [~~The youth in custody of the County rarely remain in care more than 60 days.~~]

- g. Effective October 1, 2017, **Exhibit A, Part 2 “Payment and Financial Reporting,” section 1 “Payment Provisions,” subsection (d), paragraph (1), subparagraph (a)(1)** of the Agreement is hereby amended, as follows:

(1) Prior to requesting reimbursement for claims, County shall submit [~~an Implementation Plan~~] **a Policies and Procedures manual** to DHS for approval. County shall follow the procedures and requirements adopted in [~~its Implementation Plan~~] **the Policies and Procedures manual** . The [~~Implementation Plan~~] **Policies and Procedures manual** shall include an appropriate general and/or special Court Order authorizing County’s disclosure of juvenile court records to DHS for purposes of the Title IV-E Reimbursement Program. County may add procedures or requirements to the [~~Implementation Plan~~] **Policies and Procedures manual** on their own initiative.

- h. Effective October 1, 2017, **Exhibit A, Part 2 “Payment and Financial Reporting,” section 3 “Reporting Requirements,” subsections (c) and (d)** of the Agreement are hereby deleted in their entirety.

- i. Effective October 1, 2017, **Exhibit A, Part 2 “Payment and Financial Reporting,” section 3 “Reporting Requirements,” subsection (e)** is hereby renumbered as **subsection (c)** of the Agreement, and a **new subsection (d)** is added to the Agreement, as follows:

[e] **c.** County shall submit claims for Title IV-E reimbursement to DHS through the use of reports and forms prescribed by DHS, consistent with federal law and regulations pertaining to the Title IV-E Foster Care Reimbursement Assistance Program. County shall file such reports and forms in accordance with such instructions and by such deadlines as DHS may adopt consistent with federal law and regulations pertaining to the Title IV-E Reimbursement Program.

**d.** **County shall maintain and retain records and documentation of subsections (a) through (c), above, for six (6) years in compliance with federal regulation claiming.**

### 3. Certification.

- a. The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act

against the County. Without limiting the generality of the foregoing, by signature on this Agreement, the County hereby certifies that:

- (1) The information shown in County Data and Certification, of original Agreement or as amended is County's true, accurate and correct information;
  - (2) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
  - (3) County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>
  - (4) County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Nonprocurement Programs" found at: <https://www.sam.gov/portal/public/SAM/>; and
  - (5) County is not subject to backup withholding because:
    - (a) County is exempt from backup withholding;
    - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
    - (c) The IRS has notified County that County is no longer subject to backup withholding.
- b. County is required to provide its Federal Employer Identification Number (FEIN). By County's signature on this Agreement, County hereby certifies that the FEIN provided to DHS is true and accurate. If this information changes, County is also required to provide DHS with the new FEIN within 10 days.
- c. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect. County certifies that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.



4. **County Data.** County shall provide current information as required below. This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:**

**County Name (exactly as filed with the IRS):** Clackamas County \_\_\_\_\_

Street address: 2051 Kaen Road \_\_\_\_\_

City, state, zip code: Oregon City, OR 97045 \_\_\_\_\_

Email address: lkrzmarzick@clackamas.us \_\_\_\_\_

Telephone: (503) 655-8788 Facsimile: (503) 655-8448 \_\_\_\_\_

**Proof of Insurance:**

Workers' Compensation Insurance Company: Self-insured \_\_\_\_\_

Policy #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

County shall provide proof of Insurance upon request by DHS or DHS designee.

*(Remainder of page intentionally left blank)*

**5. Signatures.**

**COUNTY: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS**

**Clackamas County**

**By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**State of Oregon acting by and through its Department of Human Services**

**By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

*Approved via e-mail by Jeffrey J. Wahl, Senior Assistant Attorney General*      09/08/2017  
\_\_\_\_\_  
Department of Justice      Date



JUVENILE DEPARTMENT  
JUVENILE INTAKE AND ASSESSMENT CENTER  
2121 KAEN ROAD | OREGON CITY, OR 97045

September 28, 2017

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement with the State of Oregon Acting  
by and through its Oregon Department of Education, Youth Development  
Division**

<b>Purpose/ Outcomes</b>	This IGA between the State of Oregon, by and through the Oregon Department of Education Youth Development Division, and Clackamas County for Juvenile Crime Prevention Funding
<b>Dollar Amount and Fiscal Impact</b>	The maximum contract value is \$411,672.00
<b>Funding Source</b>	State of Oregon
<b>Duration</b>	Effective July 1, 2017 through June 30, 2019
<b>Previous Board Action</b>	None: IGA for 2015-2017 fiscal year signed on behalf of the Board by Health, Housing and Human Services
<b>Strategic Plan Alignment</b>	Ensure safe, healthy, and secure communities. The revenue received from this IGA provides funds to provide Diversion Panel Services for local cities.
<b>Contact Person</b>	Lisa Krzmarzick, Sr. Administrative Analyst, Juvenile Dept., ext. 8788

**BACKGROUND:**

Attached is an Intergovernmental Agreement provided by the State of Oregon, through the Oregon Department of Education Youth Development Division to the County to provide funds for Diversion Panel Services. Low risk/Low level first-time offenders are sent to Diversion Panels within their city of residence. This allows the youth to be held accountable in his/her community, and to give back. Diversion Panels are an important first step in our continuum of service levels holding youth accountable for their behavior.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement.

Respectfully submitted,

Christina L. McMahan, Director  
Juvenile Department

**INTERGOVERNMENTAL AGREEMENT**

Agreement No. **11086**

This Agreement is between the State of Oregon acting by and through its **Oregon Department of Education, Youth Development Division** (“Agency”) and **Clackamas County** (“County”), each a “Party” and, together, the “Parties”.

**SECTION 1: AUTHORITY**

This Agreement is authorized by ORS 190.110.

**SECTION 2: PURPOSE**

WHEREAS, House Bill 3231, chapter 37, and 2015 Oregon Revised Statutes (ORS) 417.850(5), Additional duties of Youth Development Council, authorizes the agency to ensure initiation of contracts based on approved local high-risk juvenile crime prevention plans and oversee contract changes.

WHEREAS, County has requested financial assistance from Agency for the foregoing purposes;

WHEREAS, Agency is willing, upon the terms and conditions of this Agreement, to provide financial assistance to County for the foregoing purposes; and

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION 3: EFFECTIVE DATE AND DURATION**

Upon signature by all applicable parties, this Agreement shall be effective on **July 1, 2017**. Unless terminated earlier in accordance with its terms, this Agreement shall terminate on **June 30, 2019**.

**SECTION 4: AUTHORIZED REPRESENTATIVES**

4.1 Agency’s Authorized Representative is:

Anya Sekino  
255 Capitol St NE  
Salem, OR 97310  
503.378.5156 Fax  
503.378.5115 Office  
[anya.sekino@state.or.us](mailto:anya.sekino@state.or.us)



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

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

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

## **SECTION 8: GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and County that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. COUNTY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives 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 other court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

## **SECTION 9: OWNERSHIP OF WORK PRODUCT**

- 9.1 As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- 9.1.1 "**County Intellectual Property**" means any intellectual property owned by County and developed independently from the work under this Agreement.
  - 9.1.2 "**Third Party Intellectual Property**" means any intellectual property owned by parties other than County or Agency.
  - 9.1.3 "**Work Product**" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that County is required to deliver to Agency under this Agreement and all intellectual property rights therein.
- 9.2 All Work Product created by County under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an

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

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

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

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

## **SECTION 10: CONTRIBUTION**

- 10.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party,

along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 10 with respect to the Third Party Claim.

- 10.2** With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim ), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under **the Oregon Tort Claims Act (OTCA) and any otherwise applicable** Oregon law if the State had sole liability in the proceeding.
- 10.3** With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Local Government's contribution amount in any instance is capped to the same extent it would have been capped under **the OTCA and any otherwise applicable** Oregon law if it had sole liability in the proceeding.

## **SECTION 11: COUNTY DEFAULT**

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

- 11.1** County fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 11.2** Any representation, warranty or statement made by County in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by County is untrue in any material respect when made;
- 11.3** County (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is



generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or

- 11.4** A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of County, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (c) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

## **SECTION 12: AGENCY DEFAULT**

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

## **SECTION 13: REMEDIES**

- 13.1** In the event County is in default under Section 11, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that County has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring County to perform, at County's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 13.2** In the event Agency is in default under Section 12 and whether or not County elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, County's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against County, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against County. In no event will Agency be liable to County for any

expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to County exceed the amount due to County under this Section 13.2, County shall promptly pay any excess to Agency.

## **SECTION 14: RECOVERY OF OVERPAYMENTS**

If payments to County under this Agreement, or any other agreement between Agency and County, exceed the amount to which County is entitled, Agency may, after notifying County in writing, withhold from payments due County under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

## **SECTION 15: LIMITATION OF LIABILITY**

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

## **SECTION 16: TERMINATION**

- 16.1** This Agreement may be terminated at any time by mutual written consent of the Parties.
- 16.2** Agency may terminate this Agreement as follows:
  - 16.2.1** Upon 30 days advance written notice to County;
  - 16.2.2** Immediately upon written notice to County, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;
  - 16.2.3** Immediately upon written notice to County, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;
  - 16.2.4** Immediately upon written notice to County, if County is in default under this Agreement and such default remains uncured 15 days after written notice thereof to County; or
  - 16.2.5** As otherwise expressly provided in this Agreement.
- 16.3** County may terminate this Agreement as follows:
  - 16.3.1** Immediately upon written notice to Agency, if County fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in County's

reasonable administrative discretion, to perform its obligations under this Agreement;

**16.3.2** Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that County's performance under this Agreement is prohibited or County is prohibited from paying for such performance from the planned funding source;

**16.3.3** Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or

**16.3.4** As otherwise expressly provided in this Agreement.

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

## **SECTION 17: INSURANCE**

County shall maintain insurance as set forth in Section 24, and incorporated herein by this reference.

## **SECTION 18: NONAPPROPRIATION**

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

## **SECTION 19: AMENDMENTS**

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

## **SECTION 20: NOTICE**

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

notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

## **SECTION 21: SURVIVAL**

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

## **SECTION 22: SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **SECTION 23: COUNTERPARTS**

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

## **SECTION 24: COMPLIANCE WITH LAW**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law. Both parties shall comply and County shall require all Providers by contract to comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the conduct of Activities and or delivery of Services. Without limiting the generality of the foregoing, both parties expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (d) ORS 30.670 to 30.685, ORS 659.430 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the conduct of Activities. 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. All employers, including County and Agency, that employ subject workers who conduct Activities 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. County shall require by contract that all Providers comply with these requirements and obtain any insurance required elsewhere in this Agreement.

## **SECTION 25: INDEPENDENT CONTRACTORS**

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

## **SECTION 26: INTENDED BENEFICIARIES**

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

## **SECTION 27: FORCE MAJEURE**

Neither Party is responsible for any failure to perform nor any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to County after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

## **SECTION 28: ASSIGNMENT AND SUCESSORS IN INTEREST**

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

## **SECTION 29: SUBCONTRACTS**

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

## **SECTION 30: TIME IS OF THE ESSENCE**

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

## **SECTION 31: MERGER, WAIVER**

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations,

oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

## **SECTION 32: RECORDS MAINTENANCE AND ACCESS**

County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

## **SECTION 33: HEADINGS**

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

## **SECTION 34: ADDITIONAL REQUIREMENTS**

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

## **SECTION 35: AGREEMENT DOCUMENTS**

**Order of Precedence:** This Agreement consists of the following documents, which are listed in descending order of precedence. In the event of a conflict between two or more of these documents, the language in the document with the highest precedence shall control.

This Agreement without Exhibits  
Exhibit A      General Definitions  
Exhibit B      Funding Area Descriptions &  
                    Program Definitions  
Exhibit C      Award  
Exhibit D      Special Terms and Conditions

Exhibit E Additional Terms and Conditions  
Exhibit F Approved Budget Distribution - JCP Plan

**SECTION 36: SIGNATURES**

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

**STATE OF OREGON acting by and through its Department of Education**

\_\_\_\_\_  
Karen K Harrison, Contracting Officer

\_\_\_\_\_  
Date

**Clackamas County**

\_\_\_\_\_  
Jim Bernard, Chair

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency in accordance with ORS 291.047**

**Jake J. Hogue, Assistant Attorney General via email**  
Name, Title

**09/13/2017**  
Date

## **EXHIBIT A GENERAL DEFINITIONS**

As used in this Agreement, the following words and phrases shall have the indicated meanings.

1. **"Activity" or "Service"** means an activity or service falling within a Funding Area, whose costs are covered in whole or in part with financial assistance Agency pays to County pursuant to this Agreement
2. **"Administrative Costs"** means Allowable Costs incurred by County or a Provider in administering implementation of the Plan, as determined in accordance with Office of Management and Budget Circulars A-87 and A-122, as revised from time to time.
3. **"Allowable Costs"** means those costs that are reasonable and necessary for the implementation of the Plan as determined in accordance with Office of Management and Budget Circulars A-87 and A-122, as revised from time to time.
4. **"Claim"** has the meaning set forth in Section 8.
5. **"Agreement"** means this 2017-2019 County Intergovernmental Agreement.
6. **"General Funds"** means all funds paid to County under this Agreement.
7. **"Funding Area"** means any one of the areas enumerated and further described in Exhibit B.
8. **"Funding Area Description"** means the description of a Funding Area set forth on Exhibit B.
9. **"Misexpenditure"** has the meaning set forth in Section C of Exhibit E.
10. **"Provider"** has the meaning set forth as used in Exhibit B Funding Area Description, Provider also includes County if County conducts an Activity within that Funding Area directly.
13. **"Underexpenditure"** has the meaning set forth in Section C of Exhibit E.



**EXHIBIT B**

**FUNDING AREA DESCRIPTION & PROGRAM DEFINITIONS**

1. **Juvenile Crime Prevention (JCP).** JCP Services are described below.
  1. **Definitions.** In addition to the Definitions of Exhibit A of this Agreement, the following words and phrases shall have the indicated meanings in this Exhibit B:
    1. **"Client"** means any individual who receives a Service.
    2. **"Diversion Services"** means services outlined in the Plan and provided under a separate contract with OYA for Diversion Services.
    3. **"Evaluation Costs"** means Allowable Costs incurred by a County or a Provider and associated with completion of administration of risk screen, interim review, and JJIS data fields.
    4. **"JCP Basic Services Funds"** means funds provided under a separate contract with OYA for JCP Basic Services.
    5. **"JCP Basic Services" or "Basic Services"** means services outlined in the Plan and provided under a separate contract with OYA for detention and other juvenile department services including shelter care, treatment services, graduated sanctions and aftercare for youth offenders.
    6. **"JCP Funds"** means funds provided under this Agreement for JCP Services.
    7. **"YDC"** means the Youth Development Council
    8. **"JJIS"** is the Juvenile Justice Information Systems operated by OYA and the Oregon counties.
    9. **"Juvenile Crime Prevention Services" or "JCP Services"** means services outlined in the Plan and provided under this Agreement to youth who are at high risk for commission of juvenile crime and (a) who have more than one of the following risk factors: anti-social behavior, poor family functioning; failure in school, substance abuse problems, or negative peer association and (b) who are demonstrating at-risk behaviors that have come to the attention of government or community agencies, schools or law enforcement and that will lead to the youth's imminent or increased involvement in the juvenile justice system.
    10. **"OYA"** means the Oregon Youth Authority.
    11. **"Plan"** means the County's High-Risk Juvenile Crime (JCP) Prevention Plan approved by YDC, the provisions of which are incorporated herein by this reference.
    12. **"Service"** for purposes of Juvenile Crime Prevention Program Requirements,

means any JCP Service or group of related services delivered as part of Plan implementation.

13. **"Target Population for Juvenile Crime Prevention Services"** means youth ages 10 to 17 targeted for Juvenile Crime Prevention in the Plan who have more than one of the following risk factors:

- a. Anti-social behavior;
- b. Poor family functioning or poor family support;
- c. Failure in school;
- d. Substance abuse problems; or
- e. Negative peer association; and

who are clearly demonstrating at-risk behaviors that have come to the attention government or community agencies, schools, or law enforcement and that will lead to imminent or increased involvement in the juvenile justice system

14. **"YDD"** means the Youth Development Division.

15. **"Budget Distribution"** means document submitted as a Statement of Work that describes the proposed use of monies.

16. **"Lead JCP Agency"** mean an Agency appointed by the Board of County Commissioners for use in supporting the delivery of JCP Services in accordance with the terms and conditions of this Agreement with the County.

- II. **GENERAL TERMS AND CONDITIONS.** In addition to the other terms and conditions of this Agreement, County shall comply and, as indicated, require all Providers by contract to comply with the following:

1. **Conditions Precedent to Disbursement.** Agency's obligation to disburse JCP Funds to County under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- a. County is in compliance with ORS 279B.200, 279B.230 and 279B.235.
- b. Agency has received a written quarterly JCP disbursement request from County on a form designated by Agency.
- c. With respect to each disbursement, Agency has received from County all reports required by Section II(3) of this Exhibit B to be submitted to Agency on or prior to the date of disbursement request.
- d. The JCP disbursement request is received no later than 30 days after the termination of this Agreement

2. **Expenditure/Obligation of Award.** County may expend the JCP Funds

provided to County under this Agreement solely on Allowable Costs necessarily incurred to provide Services during the term of this Agreement, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Agreement, whether in the applicable Funding Area Descriptions, special conditions identified in the Award, or otherwise):

- a. No more than 10% of the JCP Funds paid under this Agreement to County shall be expended on Administrative Costs and Evaluation Costs. These limits apply in total to all County government organizational units, Providers, and subcontractors. This applies to all JCP disbursements pursuant to this Agreement. County shall record Administrative Costs on forms provided by the Agency
- b. County may expend JCP Funds solely on JCP Services.
- c. County shall maintain previous levels of JCP Services funding for the Target Population or shall not reduce such levels of JCP Services funding by an amount greater than the Target Population's proportional share of reductions of County revenue.

County must transfer all JCP Funds received under this Agreement to its “Lead JCP Agency” appointed by the Board of County Commissioners for use in supporting the delivery of JCP Services in accordance with the terms and conditions of this Agreement.

3. **Reports.** County shall submit to Agency, on forms designated by Agency, the following written reports:
  - a. Youth risk need and interim review information will be required on the Services delivered to youth with JCP Funds at such frequency as may be requested by the Agency.
  - b. During the term of this Agreement, a quarterly written, detailed expenditure report on the County's expenditures of JCP Funds during the prior calendar quarter.
  - c. No later than 30 days after the termination of this Agreement, a written, detailed expenditure report on the County's expenditure of JCP Funds during the 2017-2019 Fiscal Year

### **III. JUVENILE CRIME PREVENTION PROGRAM REQUIREMENTS.**

#### **1. Plan**

##### **a. Plan Implementation**

County shall implement, or through Providers, shall require to be implemented, the JCP Services and JCP Basic Services portions of the Plan. The County has developed or agrees to develop the JCP Services, JCP Basic Services and Diversion Services portions of the Plan according to guidelines provided by Agency.

**b. Amendment to Plan**

County may request amendment of the Plan by notifying Agency in writing thirty (30) days prior to the submission of such proposed amendment. All amendments to the Plan shall be in a format prescribed by Agency. County must obtain approvals for an amendment that makes any significant change in the Plan. A significant change in the Plan includes but is not limited to any funding change in the categories of services outlined in the Plan. For the purposes of this Section 1.b, Juvenile Crime Prevention Services, Basic Services, and Diversion Services are deemed separate funding sources. County shall follow the following requirements if it desires to change the Plan:

- (i) The Plan cannot be amended to change allocations between Juvenile Crime Prevention Services and Basic Services/Diversion Services.
- (ii) Changes to the JCP budget in the Plan aggregating 10% or greater of the total budget for any of the funding sources must be reviewed and approved by the Agency in writing, prior to the changes taking effect.
- (iii) County shall submit written notification to Agency for any changes to the JCP budget in the Plan aggregating less than 10% of the total budget for any of the funding sources. This notification will be reviewed by Agency. The Agency reserves the right to require that the County notification be reviewed by the YDC for approval prior to the changes taking effect.
- (iv) All amendments to the Plan which comply with this Section shall be on file with Agency and shall become a part of the Plan and this Agreement from its effective date without the necessity of executing a formal amendment to this Agreement. For purposes of this Section, the effective date of a Plan amendment is the date the Plan amendment is approved or notification is received by the Agency.
- (v) In the event Agency increases or decreases the amount of funding in this Agreement pursuant to Exhibit E in an amount aggregating 10% or greater of the total budget for JCP Services, County may amend the Plan in response to the funding change, but only in a manner that is consistent with state law and rules. Such Plan amendment shall be effective no sooner than the effective date of the funding change. No later than five (5) days from its effective date, County must send any Plan amendment to Agency, who must review the amendment within thirty (30) days of its effective date. The Plan must be approved as presented or as agreed upon by the parties no later than sixty (30) days from the effective date.

2. **Cultural Competency.** County shall deliver all Services and require all Providers to deliver Services in a culturally competent and gender appropriate manner.

3. **Grievance System.** During the term of this Agreement, County shall establish and operate a system through which youths receiving Services, and the youths' parents or

guardian, may present grievances about the delivery of the Services. At the time arrangements are made for delivery of Services to a particular youth, County shall advise the youth and the parents or guardian of the youth of the existence of this grievance system.

4. **Outcomes.** County shall target its Juvenile Crime Prevention Services to the Target Population for Juvenile Crime Prevention and shall implement those services with the goal of achieving the following high level outcomes: (i) reduction of juvenile arrest rate in County, (ii) reduction of juvenile recidivism rate in County, and (iii) reduction (or maintenance) in the use of beds at OYA's Close Custody Facilities by youth from County to (or at) a level at or below Discretionary Bed Allocation. The specific targets for high level outcomes are set forth in the Plan. County shall also implement its Juvenile Crime Prevention Services and Basic Services with the goal of achieving the intermediate outcomes identified in the Plan.

## 5. Evaluation

a. County shall furnish Agency with such data, information and reports, on County's implementation of the Juvenile Crime Prevention Services and expenditure of the funds therefore paid to County hereunder, in such format and at such frequency as may be reasonably requested by Agency or as needed to comply with state or federal laws, regulations, or executive orders. County agrees to and does hereby grant the State the right to reproduce use and disclose all or any part of such data, information or reports furnished under this Agreement.

b. County agrees to produce screening and assessment data as required by the Agency in such form and at such times as Agency may reasonably request.

c. In addition to the other reporting requirements of this Agreement, the County must ensure that all OYA required JJIS data fields are entered into JJIS.

d. If the County does not meet the intermediate outcomes identified in the Plan for Juvenile Crime Prevention Services, Agency shall conduct a performance review of the County's efforts under the Plan in order to identify ways in which the Juvenile Crime Prevention Services portion of the Plan may be improved. If, upon review, Agency determines that there are reasonable grounds to believe that County is not in substantial compliance with the Plan or this Agreement, Agency may notify County regarding the alleged noncompliance and offer technical assistance, which may include peer review or other assistance, to reach such compliance. Nothing in this Section shall be construed to limit or restrict any Agency right arising out of County's default, as described in Exhibit E.

6. **Evidence-Based Programs.** County shall work with Agency to develop a process to ensure that programs and services funded under this Agreement are appropriate and workable and meet the guidelines of evidence-based programs and cost effectiveness as described under SB 267 (2003), ORS 182.515, as applicable. County shall work with Agency to develop a reporting process on County's evidence-based programs and services funded under this Agreement.

7. **Records Maintenance, Access and Confidentiality.** County shall maintain and shall require all Providers by contract to maintain a Client record for each youth that receives a Service.

**EXHIBIT C  
AWARD**

FUNDING AREA	GENERAL FUND	FEDERAL FUNDS	CFDA NUMBER
2. JCP Prevention	<b>\$411,672.00</b>		

**EXPLANATION OF AWARD**

The Award set forth above reflects the maximum amount of financial assistance that Agency will provide to County under this Agreement in support of Activities or Services in the specified Funding Areas.

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

**EXHIBIT D  
SPECIAL TERMS AND CONDITIONS**

1. Special Restrictions on Expenditure of Award. In addition to any other restriction or limitation on County 's expenditure of financial assistance, County may expend financial assistance provided under this Agreement only in accordance with the limitations set forth in the local JCP Plan prepared by County and approved in writing by Agency. County may not expend financial assistance provided under this Agreement in excess or contravention of the foregoing limits.
  
2. Carryover. Notwithstanding Section 1 of Exhibit E, if authorized by Agency in writing in accordance with the local JCP Plan prepared by County and approved in writing by Agency, financial assistance disbursed to County under this Agreement that is not expended at Agreement termination. All financial assistance retained by County in accordance with this section that is not expended within 30 days after the termination of this Agreement shall be deemed Under-expenditure subject to recovery under Section 1 of Exhibit E.
  
3. Reporting. In accordance with the local JCP Plan prepared by County and approved in writing by Agency, County shall submit such fiscal and activity reports to Agency on the Activities and Services funded with financial assistance provided under this Agreement, as Agency may reasonably request from time to time.

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



**EXHIBIT E  
ADDITIONAL TERMS AND CONDITIONS**

**1. Disbursement, Use and Recovery of Award.**

- a. Disbursement and Use Generally. Subject to the conditions precedent set forth below, Agency shall disburse the financial assistance described in the Award to County in accordance with the local JCP Plan prepared by County and approved in writing by Agency on an expense reimbursement basis or, at Agency's discretion, in periodic proportional allotments. The mere disbursement of financial assistance to County does not vest in County any right to retain those funds. Disbursements not provided on an expense reimbursement basis are considered an advance of funds to County which County may retain only (i) if properly expended, in accordance with terms and conditions of this Agreement, prior to the termination of this Agreement or (ii) if otherwise authorized in writing by Agency pursuant to this Agreement. County shall use disbursed financial assistance for the purposes allowed in this Agreement. County shall not be obligated to provide a level of Activities or Services in Funding Areas beyond the financial assistance provided by Agency.
  
- b. **Conditions Precedent to Disbursement.** Agency's obligation to disburse financial assistance to County under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
  - (i) Agency has received sufficient funding, appropriations and other expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement.
  
  - (ii) No default as described in Section 11 of this Agreement or in Section 9 of this Exhibit E has occurred.
  
  - (iii) County's representations and warranties set forth in Section 2 of this Exhibit are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
  
  - (iv) All other conditions to disbursement set forth in this Agreement have been satisfied.
  
- c. **Recovery of Award.**
  - (i) **Notice of Underexpenditure or Misexpenditure.** In the event of Underexpenditure or a Misexpenditure (each as defined below) of any moneys disbursed to County under this Agreement, Agency and County shall engage in the process described in this Section 1.c to determine the appropriate amount that Agency may recover from County, and the appropriate method for implementing such recovery. For purposes of this Section 1.c, an "Underexpenditure" means money disbursed to County by Agency under this Agreement that has not been expended by County at Agreement termination,

other than money, if any, that County is expressly permitted to retain and expend in the future under other provisions of this Agreement, and "Misexpenditure" means money disbursed to County by Agency under this Agreement and expended by County that:

- (a) Is identified by the federal government as expended contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money, for which the federal government has requested reimbursement by the State of Oregon; or
- (b) Is identified by the State of Oregon or Agency as expended in a manner other than that permitted by this Agreement, including without limitation, any money expended by County, contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money; or
- (c) Is identified by the State of Oregon or Agency as expended on an Activity that did not meet the standards and requirements of this Agreement with respect to that Funding Area.
- (d) The term "Misexpenditure" does not include any County payments or expenditures that are:
  - (A) Made pursuant to Oregon Administrative Rules;
  - (B) Made with Agency's written discretion or approval; or
  - (C) Consistent with the local plans submitted by County and approved by the Agency.
- (e) If County payments or expenditures are later determined to be impermissible due to a subsequent modification or applicable statutes, federal rules, OMB Circulars or any other authority not listed in Section 1.c (i) (d) above that governs the expenditures of such monies by County, the parties agree to meet and negotiate in good faith an appropriate apportionment of responsibility for the repayment of the impermissible payments.

In the event of Underexpenditure or Misexpenditure, Agency shall provide to County notice thereof.

- (ii) **County's Response.** From the date of County's receipt of the notice of Underexpenditure or Misexpenditure, County shall have the lesser of (i) 30 calendar days, or (ii) if an Underexpenditure or Misexpenditure relates to a federal government request for reimbursement, 30 calendar days fewer than the number of days (if any) the Agency has to appeal a final written decision from the federal government, to either:
  - (a) Make a payment to the Agency in the full amount of the Underexpenditure or Misexpenditure identified by the Agency; or

- (b) Notify the Agency that County wishes to repay the amount of the Underexpenditure or Misexpenditure from future payments pursuant to Section 1.c(iv) below; or
- (c) Notify the Agency that it wishes to engage in the applicable appeal process set forth in Section 1.c (iii) below.

The Agency shall not require County to perform additional services to be paid from the Underexpenditure. If County fails to respond within the time required under Section 1.c (ii) above, Agency may recover the amount of the Underexpenditure or Misexpenditure from future payments as set forth in Section 1.c(iv) below.

- (iii) **Appeals Process.** If County notifies Agency that it wishes to engage in an appeal process with respect to a noticed Underexpenditure or Misexpenditure, the parties shall comply with the following procedures, as applicable:

- (a) **Appeal from Agency-Identified Underexpenditure or Misexpenditure.**

If the Agency's notice of Underexpenditure or Misexpenditure is based on an Underexpenditure or Misexpenditure other than a Misexpenditure of the type identified in Section 1.c(i)(a) above, County and the Agency shall engage in non-binding discussions to give the County an opportunity to present reasons why it believes that there is, in fact, no Underexpenditure or Misexpenditure or that the amount of the Underexpenditure or Misexpenditure is different than the amount identified by the Agency, and to give the Agency the opportunity to reconsider its notice based on such presentation and discussion. County and Agency may negotiate an appropriate apportionment of responsibility for the repayment of an Underexpenditure or Misexpenditure. In determining an appropriate apportionment of responsibility, County and Agency may consider any relevant factors. An example of a relevant factor is the extent to which either party contributed to an interpretation of a statute, regulation or rule prior to the expenditure that was officially reinterpreted after the expenditure. If after such discussions Agency and County disagree as to whether or not there has been an Underexpenditure or Misexpenditure or to the amount thereof, "the parties may agree to consider further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, arbitration. If Agency and County reach agreement on the amount owed to Agency, County shall promptly repay that amount to Agency by issuing payment to Agency or by directing Agency to withhold future payments pursuant to 1.c.(iv) below. However, the parties shall not violate federal or state statutes, administrative rules, other applicable authority, or this Agreement in selecting the method or amount of repayment. If the parties are unable to reach agreement within a reasonable period of time, Agency may employ other remedies available under this Agreement or otherwise available at law or in equity.

- (iv) **Recovery From Future Payments.** To the extent that Agency is entitled to recover an Underexpenditure or Misexpenditure from future payments as permitted in this Section 1.c, Agency may recover the Underexpenditure or Misexpenditure by offsetting the amount thereof against future amounts owed to County by Agency. Agency shall provide County written notice of its intent to

recover the amount of the Underexpenditure or Misexpenditure from amounts owed County by Agency as set forth in this Section 1.c(iv), and shall identify the amounts owed by Agency which the Agency intends to offset (including the Agreement or Agreements, if any, under which the amounts owed arose). County shall then have 14 calendar days from the date of Agency's notice in which to request the deduction be made from other amounts owed to County by Agency and identified by County. Agency shall comply with County's request for alternate offset; unless the County's proposed alternative offset would cause the Agency to violate federal or state statutes, administrative rules or other applicable authority. In the event that Agency and County are unable to agree on which specific amounts owed to County by Agency the Agency may offset in order to recover the amount of the Underexpenditure or Misexpenditure, then the Agency may select the particular amounts from which it will recover the amount of the Underexpenditure or Misexpenditure, within the following limitations: Agency shall first look to amounts owed to County (but unpaid) under this Agreement. If that amount is insufficient, then Agency may look to any other amounts currently owing or owed in the future to County by Agency. In no case, without the prior consent of County, shall the Agency deduct from any one payment due County under the Agreement or agreement from which Agency is offsetting funds an amount in excess of twenty-five percent (25%) of that payment. The Agency may look to as many future payments as necessary in order to fully recover the amount of the Underexpenditure or Misexpenditure. Consistent with Section 1.c.(v)(d), nothing in this Section 1.c.(iv) shall cause County to violate state or federal constitutions, statutes, regulations, rules or other applicable state or federal authority.

**(v) Additional Provisions related to parties rights/obligations with respect to Underexpenditures or Misexpenditures.**

- (a) Agency's right to recover Underexpenditures and Misexpenditures from County under this Agreement is not subject to or conditioned on County's recovery of any money from any other entity.
- (b) If the exercise of the Agency's right to offset under this provision requires the County to complete a re-budgeting process, nothing in this provision shall be construed to prevent the County from fully complying with its budgeting procedures and obligations, or from implementing decisions resulting from those procedures and obligations.
- (c) Nothing in this provision shall be construed as a requirement or agreement by the County to negotiate and execute any future Agreement with the Agency.
- (d) Nothing in this Agreement shall require County or Agency to act in violation of state or federal law or the Constitution of the State of Oregon.
- (e) Nothing in this Section 1.c shall be construed as a waiver by either party of any process or remedy that might otherwise be available.

- (vi) **Modification of Award.** In the event of a modification in the amount of the Award pursuant to the terms of this Agreement, Agency shall provide written notice of such modification to County and provide County with a modified Award. After such notice, County shall not expend previously disbursed Award moneys in excess of the modified Award. County shall return any remaining disbursed funds in excess of the modified Award to the Agency within 30 calendar days of the noticed modification.

**2. County Representations.** County represents to Agency as follows:

- a. **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
- b. **Due Authorization.** The making and performance by County of this Agreement (1) have been duly authorized by all necessary action of County and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.
- c. **Binding Obligation.** This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- d. **Accuracy of Information.** The statements made in and the information provided in connection with any applications, requests or submissions to Agency hereunder or in connection with the financial assistance provided to County hereunder are true and accurate in all materials respects.
- e. **Activities or Services.** The performance of each Activity will comply with the terms and conditions of this Agreement and meet the standards for such Activity as set forth herein, including but not limited to, any terms, conditions, standards and requirements set forth in the Award and applicable Funding Area Description.
- f. **Cumulative Representations and Warranties.** The representations set forth in this Section are in addition to, and not in lieu of, any other representations or warranties set forth in this Agreement or implied by law.

**3. Agency Representations.** Agency represents to County as follows:

- a. **Organization and Authority.** Agency has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

- b. **Due Authorization.** The making and performance by Agency of this Agreement (1) have been duly authorized by all necessary action of Agency and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Agency is a party or by which Agency may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Agency of this Agreement, other than approval by the Department of Justice if required by law.
  - c. **Binding Obligation.** This Agreement has been duly executed and delivered by Agency and constitutes a legal, valid and binding obligation of Agency, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - d. **Cumulative Representations and Warranties.** The representations set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided.
4. **Expenditure/Obligation of Award.** County may expend the financial assistance provided to County under this Agreement solely on Activities or Allowable Costs necessarily incurred in implementation of the Plan during the term of this Agreement, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Agreement, whether in the applicable Funding Area Descriptions, special conditions identified in the Award, or otherwise):
- a. County may not expend and shall require all Providers by contract to not expend on any Activity any financial assistance provided to County under this Agreement in excess of the amount reasonable and necessary for quality performance of that Activity.
  - b. County may not expend and shall require all Providers by contract to not expend financial assistance awarded to County under this Agreement for a particular Funding Area (as reflected in the Award) on any Activities or Services other than Activities or Services falling within that Funding Area.
  - c. County may not use financial assistance provided to County under this Agreement to reimburse any person or entity for expenditures made, or to pay for goods or services provided, prior to the effective date of this Agreement.
5. **Reports.** County shall prepare and deliver to Agency written reports on the expenditure of the financial assistance provided to County hereunder as Agency may reasonably request from time to time. The reports shall be prepared and submitted in accordance with the local JCP Plan prepared by County and approved in writing by Agency.
6. **Provider Agreements.** Except when the Funding Area Description requires Activities falling within that Funding Area to be provided or conducted by County directly or expressly provided in the Plan, County may expend financial assistance provided under this Agreement for a particular Activity to purchase services comprising that Activity from a third person or entity (a "Provider") through a contract (a "Provider Agreement"). County may permit a Provider to purchase services comprising an Activity, from another person or entity under a subcontract and

such subcontractors shall also be considered Providers for purposes of this Agreement. County shall not permit any person or entity to be a Provider unless the person or entity holds all licenses, certificates, authorizations and other approvals required by applicable law to deliver the services. The Provider Agreement must be in writing and contain each of the provisions that must be included in a Provider Agreement under the terms of this Agreement or in order to permit County to comply with its obligations under this Agreement with respect to the Activities conducted by the Provider. County shall maintain an originally executed copy of each Provider Agreement at its office and shall furnish a copy of any Provider Agreement to Agency upon request.

7. **Provider Monitoring.** County shall monitor the use by Providers of .all Award funds distributed to such Providers. County shall advise all Providers of the requirements applicable to them and to the use of Award funds under this Agreement, state and federal laws, state and federal regulations, the provisions of other applicable contracts and any supplemental requirements imposed by the County. County shall require by contract that Providers comply with such requirements and satisfy Plan and other program goals related to their Award financing. County shall monitor relevant activities of Providers to ensure that Award funds are used for authorized purposes in compliance with such requirements and to determine whether Plan and other performance goals are being achieved. If findings/recommendations occur from such audits, or from other audits or other County monitoring with respect to Award funds, County shall issue management decisions to relevant Providers within 30 calendar days after receipt of such audit reports or generation of monitoring findings/recommendations and shall ensure that Providers take appropriate and timely corrective action. County also shall provide copies of such audit and monitoring findings/recommendations and of corresponding County management decisions to the Agency within thirty (30) days of County's deadline herein for issuing its respective management decision.

8. **Records Maintenance, Access and Confidentiality.**

- a. **Access to Records and Facilities.** The Agency, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of the County and all Providers that are directly related to this Agreement, the financial assistance provided hereunder, or any Activity for the purpose of making audits, examinations, excerpts, copies and transcriptions: County shall include this provision in all Provider Agreements and require all Providers to include this provision in all subcontracts. In addition, County shall permit, and require all Providers by contract to permit, authorized representatives of Agency to perform site reviews of all Activities of County or of Provider.
- b. **Retention of Records.** County shall retain and keep accessible and require all Providers by contract to retain and keep accessible all books, documents, papers, and records, that are directly related to this Agreement, the financial assistance provided hereunder or any Activity, for a minimum of three (3) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination of this Agreement. If there are unresolved audit or other questions at the end of the three-year period, County shall retain the records until the questions are resolved.
- c. **Expenditure Records.** County shall document and require all Providers by contract to document the expenditure of all financial assistance paid by Agency under this Agreement. Unless applicable federal law requires County or a Provider to utilize a different accounting system, County shall create and maintain and require all Providers

by contract to create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit Agency to verify how the financial assistance paid by Agency under this Agreement was expended.

**d. Confidentiality of Client Information.**

- (i) All information as to personal facts and circumstances obtained by the Contractor on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, the responsible parent of a minor child, or his or her guardian except as required by other terms of this Contract. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- (ii) The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Contract. Confidentiality policies shall be applied to all requests from outside sources.
- (iii) Agency, Contractor and any subcontractor will share information as necessary to effectively serve Agency clients.

**9. County Default.** In addition to the default provisions described in Section 11 of this Agreement (“County Default”), County shall be in default under this Agreement upon the occurrence of any of the following events:

- a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein, including but not limited to, County's failure to comply with the Plan;
- b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by Agency to measure County performance hereunder, including without limitation, the conduct of Activities and or delivery of Services, the expenditure of financial assistance or the performance by County, is untrue in any material respect when made;
- c. County (i) 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, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) is adjudicated a bankrupt or insolvent, (v) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) 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 (viii) takes any action for the purpose of effecting any of the foregoing; or
- d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (iii) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such



proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

10. **Agency Default.** In addition to the default provisions described in Section 12 of this Agreement (“Agency Default”), Agency shall be in default under this Agreement upon the occurrence of any of the following events:

- a. Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
- b. Any representation, warranty or statement made by Agency herein or in any documents or reports made in connection herewith reasonably relied upon by County to measure performance by Agency is untrue in any material respect when made.

11. **Termination.**

a. **County Termination.** County may terminate this Agreement in its entirety or may terminate its obligation to conduct Activities or provide Services in a particular Funding Area described in the Award:

- (i) At its sole discretion upon 30 days advance written notice to Agency, or
- (ii) Upon 30 days advance written notice to Agency, if Agency is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as County may specify in the notice; or
- (iii) Upon 30 days advance written notice to Agency, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in reasonable exercise of its administrative discretion; or
- (iv) Immediately upon written notice to Agency, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

b. **Agency Termination.** Agency may terminate this Agreement in its entirety or may terminate its obligation to provide financial assistance under this' Agreement for a particular Funding Area described in the Award:

- (i) Upon 30 days advance written notice to County, if Agency determines, in its sole discretion, to end all or any portion of the financial assistance to County under this Agreement; or
- (ii) Upon 30 days advance notice to County, if Agency does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of Agency under this Agreement, as determined by Agency in the reasonable exercise of its

administrative discretion. Notwithstanding the preceding sentence, the Agency may terminate immediately upon written notice to County or at such other times as it may determine if action by the federal government, the Oregon Legislative Assembly or the Emergency Board reduces funding to be provided by Agency under this Agreement or the Agency's legislative authorization and the effective date for such reduction is less than 30 days from the date the action is taken.

- (iii) Immediately upon written notice to County if state or federal laws, regulations or guidelines are modified, changed or interpreted in such a way that the Agency does not have the authority to provide financial assistance for one or more Funding Areas or no longer has the authority to provide the financial assistance from the funding source it had planned to use.
- (iv) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as Agency may specify in the notice.
- (v) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a Provider to conduct an Activity and or deliver a Service is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a Provider no longer meets requirements to conduct that Activity and or deliver the Service. This termination right may only be exercised with respect to the Funding Area impacted by loss of necessary licensure or certification.
- (vi) Immediately upon written notice to County, if Agency determines that County or any of its Providers have endangered or are endangering the health or safety of individuals.

## **12. Effect of Termination**

- a. **Generally.** If Agency disbursements of financial assistance under this Agreement for a particular Funding Area are reduced under Section 1(a) and 1(b)(i) of Exhibit E, or as a result of Agency's exercise of its rights under this Exhibit E, or as a result of an amendment to this Agreement reducing the amount of financial assistance awarded for that Funding Area, County is not required by this Agreement to utilize other County funds to replace the funds no longer received under this Agreement as a result of the disbursement reduction. Furthermore, County may, from and after the date of a disbursement reduction described in the preceding sentence, reduce or eliminate the quantity of Activities within that Funding Area commensurate with the size of the disbursement reduction for that Funding Area. Nothing in this Section 12(a) shall affect the County's obligations under this Agreement with respect to financial assistance actually received by County under this Agreement or with respect to Activities actually performed.
- b. **Entire Agreement.** Upon termination of this Agreement in its entirety, Agency shall have no further obligation to pay or disburse financial assistance to County under this Agreement, whether or not Agency has paid or disbursed to County all financial assistance described in the Award. Notwithstanding the foregoing, Agency shall make payments to reimburse County for services provided prior to the effective date of

termination where such services are authorized pursuant to this Agreement and are not disputed by Agency. County shall have no further obligation to perform activities or services under this Agreement after termination in its entirety except to provide information as required under this Agreement and to cooperate with Agency with respect to the enforcement of surviving rights and obligations under Subsection 12d.

- c. **Award for Individual Funding Area.** Upon termination of Agency's obligation to provide financial assistance under this Agreement for a particular Funding Area, Agency shall have no further obligation to pay or disburse any financial assistance to County under this Agreement for that Funding Area, whether or not Agency has paid or disbursed to County all financial assistance described in the Award for that Funding Area. Notwithstanding the foregoing, Agency shall make payments to reimburse County for services provided prior to the effective date of termination where such services are authorized pursuant to this Agreement and are not disputed by Agency. County shall have no further obligation to perform services or activities under this Agreement within a particular Funding Area if Agency's obligation to provide financial assistance for that particular Funding Area has been terminated except to provide information as required under this Agreement and to cooperate with Agency with respect to the enforcement of surviving rights and obligations under Subsection 12d.
- d. **Survival.** Notwithstanding Subsection a. through c. above, termination of this Agreement shall not extinguish or prejudice Agency's right to enforce this Agreement in accordance with its terms with respect to financial assistance disbursed to County under this Agreement, or Activities conducted or Services performed, prior to the termination. Specifically, but without limiting the generality of the preceding sentence, termination of this Agreement shall not affect Agency's right to recover from County, in accordance with the terms of this Agreement, any financial assistance disbursed to County that is identified as an Underexpenditure or Misexpenditure. Termination of this Agreement, in whole or in part, shall not affect County's right to receive financial assistance to which it is entitled, as described above in Subsections a. through c. If a termination right set forth in this Exhibit E is exercised, both parties shall make reasonable good faith efforts to minimize unnecessary disruption or other problems associated with the termination.

13. **Modification of Award.** If the Oregon Legislative Assembly, Legislative Emergency Board or Oregon Department of Administrative Services increases or decreases the amount of money appropriated, authorized or allotted to Agency for implementation of the Services described in this Agreement, Agency shall provide written notice of such a change to County. The parties shall negotiate an agreement to adjust County's levels of service in a commensurate amount and in proportion to the increase or decrease in the appropriation, authorization or allotment to the Agency. As appropriate, the parties shall execute an amendment to this Agreement reflecting the increase or decrease in the Award and adjustment in levels of service. Nothing in this section shall limit or restrict Agency's rights under this Agreement to suspend disbursement of financial assistance or to terminate this Agreement (or portion thereof as provided in this Exhibit E) as a result of a reduction in appropriations or allotments. This Section is not applicable to any funding change that requires a different or new service to be provided. Further, all parties agree that County may reduce, adjust or terminate levels of service commensurate with the amount of any reduction of money appropriated for implementation of the Plan, in accordance with Exhibit E, Section 1(b)(v) of this Agreement. In response to a funding change pursuant to this Section 11 of the Agreement, County shall submit a new Service Plan to Agency for approval in a format and timeline prescribed by Agency. Such Service Plan shall be effective no sooner than the effective date of the funding change.

14. **Resolution of Disputes over Additional Financial Assistance Claimed by County.** If after termination of this Agreement, County believes that Agency disbursements of financial assistance under this Agreement for a particular Funding Area are less than the amount of financial assistance that Agency is obligated to provide to County under this Agreement for that Funding Area, as determined in accordance with applicable financial assistance calculation methodology, County shall provide Agency with written notice thereof. Agency shall have 30 calendar days from the effective date of County's notice to pay County in full or notify County that it wishes to engage in a dispute resolution process. If Agency notifies County that it wishes to engage in a dispute resolution process, County and Agency's Assistant Administrator shall engage in non-binding discussion to give Agency an opportunity to present reasons why it believes that it does not owe County any additional financial assistance or that the amount owed is different than the amount identified by County in its notices, and to give County the opportunity to reconsider its notice. If Agency and County reach agreement on the additional amount owed to County, Agency shall promptly pay that amount to County. If Agency and County continue to disagree as to the amount owed, the parties may agree to consider further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, non-binding arbitration. Nothing in this Section shall preclude the County from raising underpayment concerns at any time prior to termination of this Agreement under Section 15 below.
  
15. **Resolution of Disputes, Generally.** In addition to other processes to resolve disputes provided in this Exhibit, either party may notify the other party that it wishes to engage in a dispute resolution process. Upon such notification, the parties shall engage in non-binding discussion to resolve the dispute. If the parties do not reach agreement as a result of non-binding discussion, the parties may agree to consider further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, binding arbitration. The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies available under this Agreement or otherwise available at law or in equity.

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## Exhibit F Approved Budget Distribution - JCP Plan

Clackamas County  
Juvenile Crime Prevention Plan Update  
2017-2019

### 1. POSITIVE YOUTH DEVELOPMENT APPROACH AND PROGRAMMING

#### Clackamas County City Diversion Panels

The development of the Clackamas County City Diversion Panel was based on a restorative justice model, and internationally recognized and utilized framework that guides how a community might respond to harm, discipline or crime with a focus on meeting the needs of everyone impacted through processes that emphasize responsibility, relationships, and respect. Restorative Justice also has the underlying assumptions that community has a crucial role to play in our response to juvenile delinquency, and that holding youth accountable in their own community provides the youth an opportunity to make logical cause and effect associations about actions and consequences.

In July of 2002, the Clackamas County Juvenile Department officially began the City Diversion Panel Project. Several forces came together which led to their creation. One important development coming forward was a funding source. A State Juvenile Crime Prevention initiative was implemented and as a result, each participating County received State money to prevent juvenile crime. Secondly, research had recently been released which indicated “low risk” offenders should be held accountable for their behavior but the consequence should be quick, appropriate and not excessive. Thirdly, some cities felt more could be done to hold juvenile offenders accountable and were asking for an opportunity to work with juvenile offenders who live in their communities. Lastly, the Juvenile Department knew that 80% of juvenile crime is committed by 8% of the offenders. The Juvenile Department was anxious to identify these “High Risk” offenders and focus the bulk of its attention on having a serious impact on juvenile crime. Hence, the creation of the City Diversion Panels allowed the Cities to be involved with its low risk offenders; they allowed more juveniles to be held accountable and they provided an opportunity for the Juvenile Department to focus its attention on “High Risk” juvenile offenders.

In July of 2002, Canby, Gladstone, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn and Wilsonville began their City Diversion Panels. Estacada came on board in January of 2003. In January 2008, Happy Valley developed their City Diversion Panel; they also serve Clackamas youth. In early 2009 a Latino Diversion Panel was established in Milwaukie and Canby to better serve monolingual families in Clackamas County.

In July of 2014, the Juvenile Department initiated a community-driven process in Happy Valley and Canby to re-imagine their diversion programs with a primary focus being to expand community involvement and strengthen their alignment with restorative justice values and principles, the original guiding framework for City Diversion. These two Diversion Programs are now operating as pilots to establish a foundation of operating principles for which the other Panels may follow.

The youth referred to Diversion Panels are typically first time offenders who were involved in violations like possession of alcohol or marijuana and misdemeanors such as criminal mischief or theft. Youth face a panel of volunteer community members who decide upon an appropriate consequence. On average, each City Diversion Panel serves 25 youth each year, totaling about 205 youth annually.

Today each city has a Diversion Panel Coordinator who coordinates panel activities and is employed by a local nonprofit. The Juvenile Department has a liaison staff person who facilitates communication and trainings.

Youth Program Quality Principles:

Our two contracted non-profit partners that are administering the local diversion panel programs are Parrott Creek Family Service and Todos Juntos.

Todos Juntos has been active in serving youth exclusively in Clackamas County for over 14 years. Todos Juntos' policies and program delivery are non-discriminatory: though Todos Juntos expertise can target the Hispanic community, many Anglo and other cultural groups are represented in their services. One-fourth of the 40+ Todos Juntos staff are Hispanic and fully bi-lingual. Staff are required to participate in culturally appropriate service and assessment trainings. Todos Juntos facilitators are from participants' own culture, giving them the capacity to facilitate monolingual Spanish speakers and assist in their community adjustment. By offering these programs in Spanish by bilingual and bicultural staff from the youth's own cultural community, they connect students to history and to personal and community identity.

Parrott Creek Family Services has served over 25,000 youth and families since their program began in 1968. Their services help participants learn to recognize and acknowledge how disruptive patterns hurt themselves and others. They leave their programs with the concrete skills to control and change impulsive negative behaviors, ultimately helping them reach their full potential. Parrott Creek works with both the youth and their family to address these issues and help them build the skills and trust they need to get back on the right path to success.

Their programs are built to support the whole family—including parents, siblings, grandparents, or any other significant individuals involved in the family dynamic.

## **2. JUVENILE CRIME PREVENTION RISK ASSESSMENT TOOL**

Northwest Professional Consortium (NPC) Research is developing a Juvenile Crime Prevention Risk Assessment "quick screening" tool to identify youth who have risk factors that are most predictive for criminal reoffending in Clackamas County. It is anticipated this tool will be used by the Clackamas County Juvenile Department (CCJD) employees assigned to work in the Juvenile Intake and Assessment Center, as well as by providers that CCJD contracts with to provide services to youth in the community. NPC will train CCJD staff and non-profit Diversion Panel Coordinators how to use the "quick screen" tool.

All youth brought to the Clackamas County Juvenile Department’s Intake and Assessment Center by law enforcement officers are input into the JJIS database, which makes an initial determination of risk and protective factors. Additional assessments of youth include a mental health screen, and appraisals of threat of harm to community and to self. Based upon these evaluations, youth are then referred to the appropriate programs and services.

Youth determined through this initial screening process to be in need of the lowest level of services are referred to the JCP Prevention-funded, community-based Diversion programs. Clackamas County uses the JCP risk screen to confirm the eligibility of referred youth and they are admitted to JCP programming in accordance with criteria established by the State Juvenile Crime Prevention Advisory Committee and Oregon statute (ORS 417.855). They must have more than one of the following risk factors: antisocial behavior, poor family functioning or poor family support, school failure, substance abuse, or negative peer association.

In addition to having at least two risk factors, they must also be clearly demonstrating at-risk behaviors that have come to the attention of government or community agencies, schools, or law enforcement and, if left unaddressed, these behaviors will lead to imminent or increased involvement in the juvenile justice system. Youth referred for JCP funded services are 10-18 years.

### **3. Planning Process**

Clackamas County’s intention is to fund the Local Intervention Programs (City Diversion Panels) to address juvenile crime prevention. This was one of the strategies originally defined in the 2011-2013 Plan and updated for the 2013-2015 and 2015-2017 biennium.

Clackamas County Positive Youth Development Collective, which guides policy and decision-making on youth-related issues include:

- Mary Rumbaugh/Clackamas County Behavioral Health Division
- Rodney Cook/Clackamas County Children, Youth & Families Division
- Dawn Emerick/ Clackamas County Public Health and Health Centers
- State DHS – District 15 (Director vacant, to be filled)
- Christina L. McMahan/Clackamas County Juvenile Department
- Bryan Fuentes, Clackamas Workforce Partnership
- Molly Aleshire/CTEC Youth Services
- Rose Fuller/Northwest Family Services
- Lennie Bjornsen/Gladstone SD
- Patty McMillan/Clackamas County Safe Communities
- Lana Shotwell/Trillium Family Services
- John Duke/Outside In.

The proposed plan addresses the needs of “priority” and “opportunity” youth 10-18 years with misdemeanor charges or that have otherwise come to the attention of law enforcement through the following community- based programs:

School and related outcomes tracked for JCP funded programming include number of referrals, youth served, number that successfully complete, number of hours worked, number of youth served in cognitive skills classes, dollars earned to re-pay victims and number of community service events and hours.

The decision to continue funding these programs is based upon the results – outcomes for youth involved in Clackamas County’s system have continued to improve over time and state data shows that, Clackamas County has the third largest juvenile population among Oregon counties, and a recidivism rate 23.7%. Clackamas County is always striving towards communication, collaboration, and partnership between the County and local agencies and organizations. This teamwork increases the wraparound for youth and families in need and keeps them engaged using strengths-based principles.

Diversion Panels had 205 dispositional agreements and 96.7% of youth participants successfully completed the program in 2015-16. The recidivism rate for diversion was 7.5%. Diversion Panels served 245 youth in 2016; 101 female, 144 male youth. Of youth served 6 were 12 or younger, 102 were ages 13-15, and 137 youth were 16 and older. In 2016 Diversion Panels included five African American youth, 6 Asian youth, 23 Hispanic youth, 1 Native American youth, 1 other youth, and 209 White youth.

#### **4. Relation to Local Data on Disproportionate Minority Contact (DMC)**

Current Relative Rate Index data continue to confirm that the diversion alternatives created for Latino youth has eliminated the disparity for this population in terms of “cases diverted”. Equitable access in service delivery for Latino youth has been sustained by incorporating bi-lingual/bi-cultural service provision into contract requirements and through the creation of bi-lingual/bi-cultural Diversion Panels. See attached (1) New JJIS Racial and Ethnic Disparity Report.

#### **5. Population to be Served**

The proposed plan addresses the needs of “priority” and “opportunity” youth 10-18 years with misdemeanor charges or that have otherwise come to the attention of law enforcement (exceptions are made for children younger than 10 years whose older siblings are involved in the system). Generally, they are first-time offenders charged with criminal mischief, property offenses, theft, and/or possession of alcohol.

JCP programming typically serves Clackamas County youth as follows: African American 2.0%; Asian 5.8%; Caucasian 77.9%; Latino 13.5% and Native American 0.9%. All youth brought to the Clackamas County Juvenile Department’s Intake and Assessment Center by law enforcement officers are input into the JJIS database, which makes an initial determination of risk and protective factors. Additional assessments of youth include a mental health screen, and appraisals of threat of harm to community



and to self. Based upon these evaluations, youth are then referred to the appropriate programs and services. Youth are reassessed every 6 months and at case closure.

## **6. JCP Strategies and Outcomes**

City Diversion Panels operate in eleven cities. The panels are based upon evidence-based adolescent diversion models endorsed by the Office of Juvenile Justice and Delinquency Prevention. Panel members are residents/citizens in each community, who assign community service that corresponds to each youth's offense. Diversion panels serve at-risk youth (age 10-18 years) with misdemeanor charges who have at least two risk factors as identified using the JCP Risk Assessment tool. Diversion has an "effective" and "promising" rating on the OJJDP Model Programs Guide.

JCP programming performance evaluation aligns with the High Risk Juvenile Crime Prevention Performance Measures Policy outlined in Appendix H of the JCP guidelines document. Youth demographic and performance data is tracked in the JCP Data Manager and/or JJIS. Performance measures tracked include:

- Comparison of number and percent of first referrals for youth not previously referred to the juvenile justice system; and comparison of the number and percent of youth who have a subsequent referral to the juvenile justice system (recidivism)
- Client and program level outcome measures collected by programs through initial JCP Assessments

Output information:

- Number of active cases carried over from the previous reporting period
- Number of new youth enrolled during the reporting period
- Number of youth ending service during the reporting period
- Total number of youth served in the reporting period (number carried over from the previous period combined with the number of youth enrolled)
- Number of active cases at the end of the reporting period

Descriptive information:

- Risk profiles of youth enrolled during the reporting period
- Demographic data - age ranges, gender, and race/ethnicity

See attached (2) 2015 Diversion Panel Reports.

## **7. Evidence Based Practice and Cultural Appropriateness**

In an effort to address disproportionate minority contact by the Juvenile Justice System, two Latino-specific Diversion Panels were created and continue to operate in the City of Canby and City of Milwaukie. This provides a more culturally relevant diversion option to keep low-risk Latino youth out of

the Juvenile Justice System. Two Regional Diversion Panels served 24 Latino Youth in 2015. These youth completed 111 hours of restorative community service work.

Cited below are some of the research articles which align with our program:

Butts, Jeffrey A., et al. 2002. *The Impact of Teen Court on Young Offenders*. Washington DC: The Urban Institute.

Collins, Joy, et al. 2013. *Statewide Evaluation of the DCJ Juvenile Diversion Program*. Colorado: OMNI Institute.

Unknown Author. 2011. *Juvenile Diversion Guidebook: Prepared by the Models for Change Juvenile Diversion Workgroup*. Washington DC: Models for Change.

Schneider, Anne L. 1986. *Restitution and Recidivism Rates of Juvenile Offenders: Results from Four Experimental Studies*. *Criminology*. 24(3): 533-553.

## **8. Relation to the Continuum of Services**

CCJD also partners with local police departments, the County Sheriff's office, and non-profit agencies to provide the most appropriate services to youth based upon their presenting behaviors and risk factors. These services are structured according to a system of graduated sanctions includes several service areas:

- Prevention Services include local Diversion Panels
- Basic Services comprised of local Diversion Panels, Detention Services, and Shelter Care
- Diversion Services include Detention and Shelter Care

An important component of CCJD services is the Intake and Assessment Center (IAC), which is the result of a collaborative effort with the Clackamas County Sheriff's Office. The IAC is open 24 hours a day, 7 days per week and is the point of entry for all youth who are taken into custody by police. Youth who present with misdemeanor and higher level offenses receive a number of assessments at IAC to determine if there is a prior juvenile record, a history of child abuse/neglect, drug and/or alcohol problems or mental health issues, and if the youth are a threat to the community or to themselves. The services administered by the IAC facilitate referral of youth to appropriate programs and services.

Level 1 (lowest level) offenders are referred to JCP funded Diversion Panels in their own communities, which are comprised of volunteer community members who decide how the youth will be held accountable for their actions based upon their offense and personal circumstances. Typical consequences might include completion of a written essay, participation in counseling,

attending drug and alcohol education program, attending a victim impact panel, completing specified hours of community services, or combinations of these.

Level 2 youth present with misdemeanor offenses and are put on a Formal Accountability Agreement (FAA) for a period of 3-6 months. Youth at this level and higher are fingerprinted and photographed.

Level 3 offenders are referred to Juvenile Court Counselors, who hold them accountable through FAAs. Informal sanctions and wrap-around services are emphasized.

Level 4 youth present with felony charges. Court mandated sanctions and targeted treatment interventions are typical at this level.

Specialized services offered through the CCJD include sex offender treatment, MIP/DUII counseling, Juvenile Drug Court, Cognitive Skills training, mental health services, and Victim Offender mediation. Additionally, CCJD provides Hispanic youth and their families with language-specific information about its systems and processes and employs two bi-cultural and bi-lingual counselors that serve Hispanic youth referred to the department. Interpreters are available to accompany youth and families with limited English language skills to court and to appointments with lawyers. As a result of recently implemented services to address racial and ethnic disproportion, diversion panel services are now available to Spanish-speaking youth and their families.

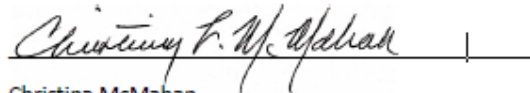
Youth in need of services and treatment beyond that which is provided by CCJD are referred to the Oregon Youth Authority. At this point in the continuum, they are placed in out-of-home care situations, which include foster care, secure residential and correctional facilities.

See Attachment (3) JCP table

**9. Budget**

The Prevention budget is allocated as follows:

JCP FUNDED SERVICES	BUDGET FY 17/18	BUDGET FY 18/19
Local Intervention Programs (City Diversion Panels)	\$156,231	\$156,231



Christina McMahan  
Director, Clackamas County Juvenile Department



September 28, 2017

Board of County Commissioners  
Clackamas County

Members of the Board:

A Board Order Approving a Tax Foreclosed Property for Declaration as Surplus and  
Established Minimum Bid Amount

<b>Purpose/Outcomes</b>	Return the tax foreclosed parcel to the tax rolls
<b>Dollar Amount and Fiscal Impact</b>	Dollar amount varies depending on sale results
<b>Funding Source</b>	N/A
<b>Duration</b>	Management and disbursement of tax foreclosed and surplus properties are ongoing
<b>Previous Board Action</b>	A Study Session with the Board of County Commissioners was held on September 12, 2017 to discuss these parcels. The Board approved the parcels to be declared as surplus for sale or distribution
<b>Strategic Plan Alignment</b>	1. Management of Tax Foreclosed properties 2. Build public trust through good government
<b>Contact Person</b>	Rick Gruen, Property Resources Manager 503.742.4345

**BACKGROUND:** Clackamas County's Department of Assessment and Taxation annually forecloses on tax-delinquent properties. The foreclosure process is a six year process – taxes must be delinquent for three years, then a two year judgment is filed and in the sixth year foreclosure occurs and the property is deeded to the County in lieu of uncollected taxes. Following the recording of the deed in the County's name, the management and disposition is then transferred to the Property Resources Division of the Department of Business and Community Services. Property Resources Division is tasked with managing, administering and dispersing of tax foreclosed real property assets in a cost effective manner that will provide a County public benefit. No General Fund resources are currently allocated to this program

**RECOMMENDATION:** Staff recommends the Board of County Commissioners approve the list of tax foreclosed properties for declaration as surplus and set the minimum bid amount.

Respectfully submitted,

Laura Zentner, Deputy Director  
Business and Community Services

In the Matter of the Sale of Real  
Property acquired by Clackamas  
County by tax deed, gift or purchase.

ORDER NO.

Page 1 of 3

This matter coming before the Board of County Commissioners at this time, and it appearing to the Board that the real property parcels listed below, having been acquired by Clackamas County by tax deed, gift or purchase, are not currently in use for County purposes; and

IT FURTHER APPEARING a list of the proposed auction properties was circulated and reviewed by County Department Heads and other governmental agencies within Clackamas County and are therefore presumed surplus.

IT FURTHER APPEARING to the Board that the following properties should be offered for public sale for not less than the minimum price specified herein and in compliance with applicable portions of ORS Chapter 275.110;

NOW, THEREFORE, the Board finds that the real property parcels listed below are surplus, and selling them is in the best interest of the citizens of Clackamas County.

IT IS HEREBY ORDERED that the following properties shall be offered for sale for not less than the minimum price specified herein and in compliance with the applicable portions of ORS Chapter 275.110.

Parcels may be encumbered with restrictions, easements, conditions and covenants.

**Clackamas County Surplus Real Estate Public Oral Auction  
Development Services Building  
Auditorium  
150 Beaver Creek Rd., Oregon City, OR 97045  
Date: TBD**

**REGISTRATION begins at 9:00 a.m. / AUCTION begins at 10:00 a.m.  
\* \* \* Auction will be conducted in English and in U.S. currency only \* \* \***

In the Matter of the Sale of Real  
Property acquired by Clackamas  
County by tax deed, gift or purchase.

ORDER NO.

Page 2 of 3

<b>Item #</b>	<b>Description</b>	<b>Assessed Real Market Value \$</b>	<b>Minimum Bid \$</b>	<b>Deposit Amount- 20% of the Minimum Bid</b>
<b>1</b>	21E02DD00501 Improved Land- 14106 SE Lee Ave Milwaukie, OR Approximately .17 Acres	\$264,934	TBD	TBD
<b>2</b>	26E22BD01200 Unimproved Land off of HWY 26 and Sleepy Hollow Approximately .17 Acres	\$42,655	TBD	TBD

In the Matter of the Sale of Real  
Property acquired by Clackamas  
County by tax deed, gift or purchase.

ORDER NO.

Page 3 of 3

IT IS FURTHER ORDERED that the Sheriff of Clackamas County, Oregon be and is hereby directed and authorized to sell the above described properties in the manner provided by law and for not less than the minimum price herein determined; and

IT IS FURTHER ORDERED that the Sheriff of Clackamas County, Oregon is hereby directed to advertise the sale of the above described property in a newspaper of general circulation, circulated and published in Clackamas County, once a week for four consecutive weeks prior to such sale. Such notice shall include the date, time and place of sale, the description of the properties or interests therein to be sold, the market value of the properties or interests as determined by a certified appraiser or the Clackamas County Department of Taxation and Assessment, the minimum price as fixed by the Board at the date of this order. The Sheriff shall further make a proof of publication of such notice in the same manner as proof of publication of summons is made and shall file such proof of publication with the county clerk. Copies of all Sheriff Sale documents shall be forwarded to the Property Resources section upon sale completion; and

IT IS FURTHER ORDERED that the Director or Deputy Director of Business and Community Services, is hereby authorized to act as representative of the Board of County Commissioners in the acceptance and execution of all documents necessary for the sales; and that the Director of Finance for Clackamas County is hereby authorized to execute all necessary documentation for the fulfillment of any contracts of sale associated with these sales at the time of fulfillment, as representative for the Board of County Commissioners.

DATED this 28th day of September, 2017

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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



**BOB COZZIE**  
DIRECTOR

**DEPARTMENT OF COMMUNICATIONS**

**COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER**  
2200 KAEN ROAD | OREGON CITY, OR 97045

September 28, 2017

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement Establishing Clackamas County as the  
Fiscal Agent for Grant Funds for Regional 911 Projects

<b>Purpose/Outcome</b>	Approval of an IGA which establishes Clackamas County as the fiscal and pass-through agent for Urban Area Security Initiative (UASI) funding for regional projects that affect the 911 community in the Portland Dispatch Center Consortium (PDCC) of which Clackamas 911 is a member.
<b>Fiscal Impact</b>	No net fiscal impact to County funds
<b>Funding Source</b>	Clackamas 911 will make initial payments on projects and will seek reimbursement from Urban Area Security Initiative (UASI) which is coordinated through the City of Portland.
<b>Duration</b>	Only applies when there are active UASI grant awards for the 911 community.
<b>Strategic Plan Alignment</b>	1. Clackamas County community will experience efficient, secure, resilient and modern 911 emergency call operations
<b>Previous Actions</b>	Serves as an addendum to the following 2 agreements: (1) Metropolitan Area Joint CAD System Intergovernmental Agreement, dated April 3, 2014, and (2) Portland Dispatch Center Consortium Intergovernmental Agreement, dated July 17 <sup>th</sup> , 2006
<b>Contact Person</b>	Cheryl Bledsoe, Communication Manager Bob Cozzie, Communications Director

**Background:**

The Urban Area Security Initiative is a grant program that has a direct contractual relationship between the State of Oregon and the City of Portland. Funds received through this grant program are typically passed directly for awarded project to county organizations to the counties that surround the City of Portland (Clackamas, Washington, Multnomah, Columbia and Clark County, Washington). While funds may be passed to cities as well, it is generally most simple to maintain a “City of Portland → County” relationship for these funds. This presents a challenge for local 911 organizations within this geographic footprint because many 911 agencies are not connected to





**BOB COZZIE**  
DIRECTOR

**DEPARTMENT OF COMMUNICATIONS**

**COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER**  
2200 KAEN ROAD | OREGON CITY, OR 97045

county departments. The 911 organizations within the Portland UASI footprint are either city-based centers (like Lake Oswego and Portland), special taxing districts (like Columbia County) or stand-alone agencies (like WCCCA in Washington County and CRESA in Clark County, Washington).

Each of the 911 Centers in the Portland UASI Region cooperatively participate in regional planning projects as members of the Portland Dispatch Center Consortium (PDCC). We apply for UASI grant funds to support these projects that will benefit 911 centers throughout our geographic footprint.

Last year, we completed the Text-to-911 project and we are now working on a project to develop an Enterprise Service Bus (ESB) which allows our Computer Aided Dispatch (CAD) systems the ability to share calls and emergency resources seamlessly across the region while we are on the phone with 911 callers. Without an ESB, a 911 dispatcher would have to pick up the phone and dial other 911 agencies after the 911 call has concluded. This project allows us to share information quickly and in the most timely manner for those who call 911 in our communities.

This IGA will establish Clackamas County as the fiscal pass-through agent for grant funded projects that affect the 911 community.

To keep the reimbursement processes as clean and simple as possible, this IGA allows the suspension of the typical funding formulas that exist in both the MAJCS (Metro Area Joint CAD System) and PDCC (Portland Dispatch Center Consortium) Intergovernmental Agreements so that there aren't multiple agencies who are initially paying and seeking reimbursement.

Washington County Consolidated Communication Agency (WCCCA) serves as the fiscal agent for both MAJCS and PDCC so they will pay the incoming invoices that are grant related, then bill Clackamas County. Clackamas County will pay these grant-related project invoices and will seek reimbursement from the UASI grant funds via the City of Portland. All PDCC purchases will be pre-approved by the City of Portland and the State of Oregon to ensure all expenses are fully reimbursed.

**Recommendation:**

Staff recommends the Board approve this IGA which establishes Clackamas County as the Fiscal Agent for regional UASI grant funds for projects involving the 911 community and specifically Clackamas County 911.

Respectfully Submitted,

Cheryl Bledsoe, Communication Manager  
Clackamas County 911

**INTERGOVERNMENTAL AGREEMENT**  
**ESTABLISHING CLACKAMAS COUNTY AS THE FISCAL AGENT FOR**  
**GRANT FUNDS FOR REGIONAL 911 PROJECTS**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made this 28th day of September 2017, by Clackamas County ("County") and the Metropolitan Area Joint CAD System (MAJCS), and the Portland Dispatch Center Consortium (PDCC) (hereto referred to as the "Parties").

This is an addendum to both the Metropolitan Area Joint CAD System Intergovernmental Agreement involving Clackamas County dated April 3, 2014 ("MAJCS IGA") and the Portland Dispatch Center Consortium (PDCC) Intergovernmental Agreement, involving Clackamas County, dated July 17, 2006 ("PDCC IGA").

**RECITALS**

1. Clackamas County is a member of the Portland Dispatch Center Consortium (PDCC) which is a regional partnership that includes 911 centers, ambulance providers and the Port of Portland within the Portland metro area;
2. Clackamas County is also a member of the Metropolitan Area Joint CAD System (MAJCS) which is working together to implement a Joint Computer Aided Dispatch (CAD) System which will serve the City of Lake Oswego, Clackamas, Columbia and Washington counties;
3. This Joint CAD System is scheduled to be fully operational in 2018;
4. The Joint CAD System involves a number of "interfaces" which connect various 911 programs like paging, fire station alerting and criminal information databases together so that everything can effectively "talk" to the CAD system;
5. One of these "interfaces" is an Enterprise Service Bus which connects CAD systems together so that they can seamlessly share information across the greater Portland Metropolitan area which includes the City of Portland, Clark Regional Emergency Services in Southwest Washington and the ambulance companies that serve all of the jurisdictions within both MAJCS and the PDCC;
6. The PDCC applied for and was awarded \$1 Million dollars in Urban Area Security Initiative (UASI) grant funds from FY15 and FY16 to develop an Enterprise Service Bus with additional functionality to serve the agencies of the PDCC;

7. The PDCC regularly applies for grant funding for projects that benefit 911 centers and partner agencies throughout the Portland metropolitan area;
8. Because many 911 agencies are special districts and not entities with general powers and broad grants of authority, Clackamas County was selected as the fiscal agent for the receipt and distribution of UASI grant funds;
9. For both the PDCC and MAJCS, Washington County Consolidated Communications Agency (WCCCA) has been designated as the billing agent for both organizations; and
10. The Parties enter into this IGA in order to designate Clackamas County as the fiscal agent for UASI funds relating to regional projects as authorized by the PDCC on the effective date of this Agreement.

THEREFORE, it is mutually agreed that the Parties voluntarily enter into this Intergovernmental Agreement which designates Clackamas County as the fiscal agent for UASI grant funds for projects authorized by the Portland Dispatch Center Consortium.

Specifically, the Parties agree as follows:

1. Except as expressly provided below in paragraphs 3 and 4, the Parties agree to suspend the funding formulas in both the PDCC and MAJCS IGAs for regional projects that directly utilize UASI grant funding. Upon approval of a project plan that utilizes grant funding, the Parties will enter into additional contracts necessary to complete regional projects that benefit the 911 centers within their established footprints. Those contracts will establish the funding formulas for those projects directly utilizing UASI grant funding.
2. The Parties agree that WCCCA, as both the billing agent for MAJCS and the PDCC, will bill Clackamas County for the expenses of each regional project, as designated by the project plan, for expenses that will be reimbursable by the applicable grant.
3. Should PDCC/MAJCS approved project expenses exceed grant funds, the MAJCS or PDCC funding formula (as contained in their respective IGAs) will apply for normal disbursement of invoices to the affected agencies.
4. Should Clackamas receive notice that the funds are not eligible for grant reimbursement, Clackamas will be refunded by WCCCA and expenses will be distributed through the applicable funding formula identified in either the PDCC or MAJCS IGA.

5. Both PDCC and MAJCS will do due diligence to seek pre-approval from the State of Oregon on project plans to ensure the highest level of reimbursement eligibility.
6. PDCC will be the designated owner of outputs from regionally funded grant projects and will be responsible for on-going costs for support and maintenance through their already negotiated funding formulas.
7. Governing Law. The laws of the State of Oregon will govern this Agreement without respect to conflicts of laws principles. The Parties accept the personal jurisdiction of the Circuit Court for the State of Oregon for Clackamas and Washington Counties.
8. Amendments. This Agreement may be amended at any time with the written consent of all Parties.
9. Severability. If any covenant or provision of this Agreement is adjudged void, such adjudication will not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.
10. Term. This Agreement will not terminate unless terminated earlier by agreement of 2/3<sup>rd</sup> of the voting members of the PDCC. If during the term of this Agreement there is a change in applicable law or other circumstance that materially affects compliance with one or more provisions of this Agreement, the Parties agree to negotiate in a good faith a revision to this Agreement to address such law or circumstance in manner consistent with the intent of this Agreement.

IN WITNESS WHEREOF, each party has caused this Intergovernmental Agreement to be executed by its duly authorized representative on the date first mentioned above.

\_\_\_\_\_

Clackamas County

Dated: \_\_\_\_\_, 2017

\_\_\_\_\_

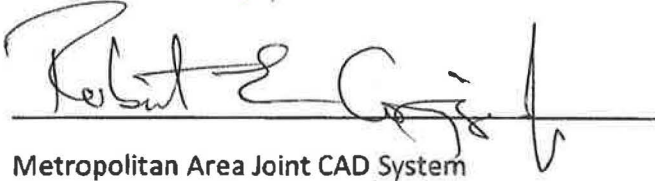
Clackamas County Counsel Approved as to Form

Dated: \_\_\_\_\_, 2017



Portland Dispatch Center Consortium

Dated: 9/20, 2017



Metropolitan Area Joint CAD System

Dated: 9/20, 2017



Dave Cummings  
Chief Information Officer

## Technology Services

121 Library Court Oregon City, OR 97045

September 28, 2017

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval for a Service Level Agreements between  
Clackamas Broadband eXchange and the Summit Learning Charter

<b>Purpose/Outcomes</b>	Clackamas Broadband eXchange (CBX) is looking for approval to enter into a Service Level Agreement (SLA) with the Summit Learning Charter for a dark fiber connection to Clackamas ESD.
<b>Dollar Amount and Fiscal Impact</b>	The Summit Learning Charter will pay a non-recurring fee of \$34,355.00 for the new fiber construction. The Summit Learning Charter will pay a recurring lease fee of \$3,060.00 annually.
<b>Funding Source</b>	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by the Summit Learning Center.
<b>Duration</b>	Effective upon signature by the board and the SLA can be renewed on a year to year basis.
<b>Previous Board Action</b>	Board previously approved CBX to build and maintain a dark fiber network for the Lake Oswego School District.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"><li>1. Build a strong infrastructure.</li><li>2. Build public trust through good government.</li></ol>
<b>Contact Person</b>	Dave Devore (503)723-4996

**BACKGROUND:**

CBX is proposing to build a new fiber lateral to extend the CBX network to the Summit Learning Charter. County Counsel has reviewed and approved this item.

**RECOMMENDATION:**

Staff respectfully recommends approval to enter into this Service Level Agreements. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

Sincerely,

Dave Cummings  
CIO Technology Services

# Clackamas County

## FIBER OPTIC SERVICE LEVEL AGREEMENT

Summit Learning Charter  
(Customer Name)

### 1. Recitals

**WHEREAS**, Clackamas County (County) desires to provide to Summit Learning Charter (Customer) the Services set forth in this Agreement, between the specified Customer sites listed in Appendix A, and at the price contained in Appendix A; and

**WHEREAS**, Customer desires to use the Services; and

**WHEREAS**, the Parties desire to set forth herein their respective rights and obligations with respect to the provision of Services,

**NOW, THEREFORE**, in consideration of the foregoing, and the mutual covenants and promises set forth herein, intending to be legally bound, the Parties agree as follows.

### 2. Fiber Optic Network Description

County will provide Customer with point-to-point single mode fiber optic network connectivity, including a termination panel for the fiber optic cables at each Customer premises on a path designated by the County.

### 3. Service Description

Service provided to Customer by County is physical connectivity of one (or more) strands of optical fiber ("Fiber"), between sites specifically identified in Appendix A for the exclusive use of the Customer's internal communication needs. Each site listed in Appendix A will have a single mode fiber termination.

### 4. Construction and Installation Requirements

- a. County, when installing fiber optic cables on the property of Customer, shall do so in a neat and professional manner. Routing and location of these cables shall be mutually agreed upon between the parties.
- b. Customer shall secure any easements, leases, permits or other agreements necessary to allow County to use existing pathways to, into and within each site to the demarcation point for service. Customer shall provide a path for the fiber optic cable from the point of entry into the site to the termination panel that complies with all applicable building, electrical, fire and related codes.
- c. Subject to the terms of this Agreement, and at no cost to County, Customer shall

provide adequate environmentally controlled space and electricity required for installation, operation, and maintenance of the County's fiber optic cables used to provision the service within each site.

- d. Customer shall provide a clean, secure, relatively dry and cool location (consistent with environmental requirements for fiber optic network connectivity equipment) at each of its premises for necessary equipment.
- e. Customer will provide or arrange for County and its employees, agents, lessees, officers and its authorized vendors, upon reasonable notice, to have reasonable ingress and egress into and out of Customer properties and buildings in connection with the provision of service.
- f. If the presence of asbestos or other hazardous materials exists or is detected, Customer must have such hazardous materials removed immediately at Customer's expense or notify County to install the applicable portion of the fiber optic network in areas of any such site not containing such hazardous material. Any additional expense incurred as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer.
- g. County shall have no obligation to install, operate, or maintain Customer-provided facilities or equipment.
- h. County shall construct Fiber into each Customer building enumerated herein; splice fiber into existing County fiber optic resources; terminate County's optical fiber in each Customer building; test and certify appropriate Fiber performance at each Customer location; and provide the appropriate "hand-off's" at each location for Customer utilization. Test results for physical connection will be made available upon request.

## **5. Term of Agreement**

At such time as County completes installation and connection of the necessary facilities and equipment to provide service herein, County shall then certify and notify Customer in writing that the service is available for use, and the date of such notice shall be called the "Service Start Date." Unless terminated with 30 days notice as herein provided, this agreement shall continue to July 1 following the date of commencement, and shall be automatically renewed on July 1 of each subsequent year, for a term of one year, at the County's then-current rate schedule.

## **6. Rates**

In return for County providing the services described in Appendix A for the term indicated herein, Customer shall pay County both nonrecurring construction/installation charges and recurring charges for services as specified in Appendix A as it shall be amended from time to time.



## 7. **Payment Options**

### a. **Annual Payments**

County shall provide an invoice for twelve months of service (July 1 through June 30), or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The annual charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to terminate the Agreement upon appropriate advance written notice to Customer.

### b. **Alternative Payment Frequency**

If Customer demonstrates that prepaid billings present a hardship, Customer may prepay semi-annually, quarterly, and in extreme circumstances may pay monthly. County shall provide an invoice for one quarter or month of service, or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The quarterly or monthly charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to terminate the Agreement upon appropriate advance written notice to Customer.

### c. **Electronic Payments**

Customer shall coordinate with County to make all payments by electronic means unless it is infeasible to do so.

## 8. **Fiber Maintenance**

County shall maintain the structural aspects of the Fiber in good operating condition, utilizing sound engineering practices and in accordance with Appendix B, throughout the Agreement Term. In the event the Fiber fails at any time to meet the specifications outlined in Appendix C, County shall endeavor to restore the Fiber to meet the specification standards in as timely and expedited a manner as reasonably possible.

County may subcontract for testing, maintenance, repair, restoration, relocation, or other operational and technical services it is obligated to provide hereunder.

Customer shall promptly notify County of any matters pertaining to any damage or impending damage to or loss of the use of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber. County shall promptly notify Customer of any matters pertaining to any damage or impending damage to or loss of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber and/or Customer's use thereof.

**9. Confidentiality**

All Customer data, voice, or video transmission using County fiber optic facilities shall be treated by County as confidential information, to the extent allowable by law. County agrees that this information shall not be made available, in any form, to any party other than County or its agents or contractors as may be necessary to conduct maintenance or repair activity, without written permission of Customer, except as required by law.

**10. Content Control and Privacy**

Customer shall have full and complete control of, and responsibility and liability for, the content of any and all communications transmissions sent or received using the Fiber.

**11. Assignment and Successors**

Either party may assign this Agreement upon prior written consent of the other party. Such consent shall not be unreasonably withheld. Upon such assignment, all rights and obligations of County and Customer under this Agreement shall pass in total without modification to any successor(s) regardless of the manner in which the succession may occur.

**12. Damage**

County shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of the Customer's premises or facilities, which are damaged by County or its agents. Customer shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of County's connectivity equipment or other facilities, located at Customer premises, which are damaged by Customer or its agents.

Customer will reimburse all related Costs associated with damage to the Fiber caused by the negligence or willful misconduct of Customer, its affiliates, employees, agents, contractors or customers, except to the extent caused by the gross negligence or willful misconduct of County, its affiliates, employees, contractors or agents. "Cost(s)", as used herein include the following: (a) labor costs, including wages, salaries, and benefits together with overhead allocable to such labor costs; and (b) other direct costs and out-of-pocket expenses on a pass-through basis (such as equipment, materials, supplies, contract services, sales, use or similar taxes, etc.).

**13. Force Majeure**

Neither party hereto shall be deemed to be in default of any provision of this Agreement, for any failure in performance resulting from acts or events beyond the reasonable control of such party. For purposes of this Agreement, such acts shall include, but shall not be limited to, acts of nature, civil or military authority, civil disturbance, war, strikes, fires, power failure, other catastrophes or other force majeure events beyond the parties' reasonable control, provided however that the

provisions of this paragraph and article shall not preclude Customer from cancelling or terminating this Agreement as otherwise permitted hereunder, regardless of any force majeure event occurring to County.

**14. Consequential Damages**

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER FORSEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, TRANSMISSION INTERRUPTIONS OR DEGRADATION, INCLUDING BUT NOT LIMITED TO DAMAGE OR LOSS OF PROFITS OR EQUIPMENT, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF REPLACEMENT SERVICES OR CLAIMS OF CUSTOMERS, WHETHER OCCASIONED BY ANY REPAIR OR MAINTENANCE PERFORMED BY OR FAILED TO BE PERFORMED BY A PARTY, OR ANY OTHER CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR STRICT LIABILITY.

**15. Public Contracting Provisions**

The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.

**16. Non-Appropriation**

Notwithstanding any other provisions of this Agreement, the parties hereby agree and understand that any obligation of Customer to obtain services as provided herein is subject to fund availability and appropriation by Customer for such services through its adoption of an annual budget. Should funds not be appropriated or be available from Customer during the term of this Agreement, the Agreement shall terminate and Customer shall pay County any remaining pro rata fees for services due to the date of such termination payable pursuant to Section 7 of this Agreement.

**17. Compliance with Laws**

Customer shall comply with all applicable federal, state, county and city laws, ordinances and regulations, including regulations of any administrative agency thereof, heretofore or hereafter adopted or established, during the entire term of this Agreement.

**18. Taxes and Assessments**

- a. Customer agrees to pay any and all applicable national, federal, state, county and local taxes, fees, assessments or surcharges, and all other similar or related charges, which are imposed or levied on the Fiber, or because of Customers use of the Services under this Agreement (collectively, "Taxes), whether or not the Taxes are imposed or levied directly on the Customer, or imposed or levied on

the County because of or arising out of the use of the Services either by the Customer, or its affiliates, or anyone to whom Customer has sold or otherwise granted access to the Services. Customer agrees to pay these Taxes in addition to all other fees and charges as set forth elsewhere in this Agreement.

- b. "Taxes" include, but are not limited to, business and occupation, commercial, district, excise, franchise fee, gross receipts, license, occupational, privilege, property, Public Utility Commission, right-of-ways, utility user, or other similar taxes, fees surcharges and assessments as may be levied against Customer, or against County and passed through to Customer.

## **19. Termination**

- a. This Agreement shall terminate ninety (90) days following written notice by either party.
- b. In the event Customer terminates this Agreement based upon County 's default or failure to perform as described in this Agreement, County shall reimburse to Customer the pro rata amounts paid on the unexpired term of this Agreement.
- c. If Customer terminates this Agreement for any reason other than that based on non-appropriation or on County's default or failure to perform, County shall be entitled to 5% of the remaining contract amount for the unexpired term of this Agreement.

## **20. Default**

- 1. Either of the following events shall constitute a default:
  - a. Failure to perform or comply with any material obligation or condition of this Agreement by any party; or
  - b. Failure to pay any sums due under this Agreement.
- 2. Any defaulting party shall have thirty (30) days in which to cure following written notice of default by the non-defaulting party.

## **21. Amendment**

Any amendments to this Agreement shall be in writing and shall be signed by all parties.

## **22. No recourse Against the Grantor**

Customer shall have no recourse whatsoever against County or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this Agreement or any part thereof is determined to be invalid.

**23. Notice**

Any notice hereunder shall be in writing and shall be delivered by personal service or by United States certified or registered mail, with postage prepaid, or by facsimile addressed as follows:

**Notice to the County**

Manager, Clackamas Broadband Express  
Clackamas County Technology Services  
121 Library Court  
Oregon City, Oregon 97045  
Fax Number (503) 655-8255

with a copy to

Chief Information Officer  
Clackamas County Technology Services  
121 Library Court  
Oregon City, Oregon 97045  
Fax Number: (503) 655-8255

**Notice to the Customer**

Richard Slater, Director  
Summit Learning Charter  
PO BOX 59  
Eagle Creek, OR 97022  
Phone Number: 971-998-5935

with a copy to

Cindy Cole  
Summit Learning Charter  
PO BOX 59  
Eagle Creek, OR 97022  
Phone Number: 503-630-5001

Either Party, by similar written notice, may change the address to which notices shall be sent.

**24. Whole Contract**

THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL PRIOR AGREEMENTS

OF PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS CONTRACT. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT WILL BE BINDING ON EITHER PARTY EXCEPT AS A WRITTEN ADDENDUM SIGNED BY AUTHORIZED AGENTS OF BOTH PARTIES.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the date and year first above written.

**Clackamas County**

By (signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**Customer**

Summit Learning Charter  
(Customer Name)

By (signature):  \_\_\_\_\_

Name (print): **Richard Slater** \_\_\_\_\_

Title: **Director** \_\_\_\_\_

Date: **9/05/2017** \_\_\_\_\_

## APPENDIX A

### SERVICE AND RATE SCHEDULE

#### 1. Specified Services and Rates

The following are the sites, services, and rates agreed to by County and Customer at which Customer shall be provided services on the fiber optic network during the term of the Agreement. It is understood by both parties that service to these sites shall be provided for the rates below, subject to any rate increases otherwise applicable in accordance with terms herein. It is further understood that, during the term of the Agreement, Customer may add services to existing or new locations, or change services and/or locations, but that such changes are subject to the rates for such additional services.

#### 2. Construction, Installation and Activation

For construction, installation and activation work and provision of fiber optic network components, the County shall charge Customer nonrecurring charge(s) as specified in Section 5 of Appendix A. All facilities constructed under this Agreement and Appendix A shall be owned, operated, and maintained by the County.

#### 3. Service Changes and Conversions

Both parties agree that Customer may add or change services during the term of the Agreement, but that such changes are subject to applicable rates, and upgrade and downgrade charges.

#### 4. Monthly Recurring Charges

	<b>From</b> (Connecting Point A:Site Name & Address)	<b>To</b> (Connecting Point B:Site Name & Address)	<b>Service</b>	<b>Monthly Rate (\$)</b>
1	Clackamas ESD 13455 SE 97 <sup>th</sup> Ave Clackamas, OR 97015	Summit Learning Charter 30391 SE Highway 211 Eagle Creek, OR 97022	One Pair (two) dark fibers	\$255.00

#### 5. Nonrecurring Charges

	<b>From</b> (Connecting Point A:Site Name & Address)	<b>To</b> (Connecting Point B:Site Name & Address)	<b>Service</b>	<b>Amount (\$)</b>
1	Clackamas ESD 13455 SE 97 <sup>th</sup> Ave Clackamas, OR 97015	Summit Learning Charter 30391 SE Highway 211 Eagle Creek, OR 97022	Construction	\$34,355.00

**6. Late Payment Interest**

Customer will be charged interest for any payment made after its due date (thirty (30) days after receipt of invoice). Interest is charged at a rate of one and a half percent (1.5%) per month, or eighteen percent (18%) annually, on any installment not paid when due.

**7. Annual Consumer Price Index (CPI) Adjustments**

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the Consumer Price Index (CPI) for urban wage earners and clerical workers for the Portland, Oregon metropolitan region for the prior year, unadjusted for seasonal variations, as determined by the Bureau of Labor Statistics of the Department of Labor and as published in such Bureau of Labor Statistics Detailed Report.

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## APPENDIX B

### MAINTENANCE AND OPERATIONS SPECIFICATIONS AND PROCEDURES

#### 1. Defined Terms

- a. "Routine Maintenance" is all preventive maintenance activities and repairs.
- b. "Non-Routine Maintenance" is all efforts and activities in response to an emergency circumstance which requires restoration of service.

#### 2. General

- a. County shall operate and maintain a Network Control and Management Center (NCAM) staffed twenty-four (24) hours a day, seven (7) days a week, by trained and qualified personnel. County shall maintain (503) 742-4219 telephone number to contact personnel and NCAM. County's NCAM personnel shall dispatch maintenance and repair personnel along the fiber optic network to repair problems detected through the NCAM's remote surveillance equipment, by the Customer, or otherwise.
- b. In the event Customer identifies a circumstance which requires restoration of service, Customer shall provide NCAM personnel the name and address of the facility with the problem, the identification number of the Fiber circuits in question, and the name and telephone numbers of Customer's personnel to contact for site access and status updates. NCAM personnel shall immediately contact a County technician and provide the Customer contact information. County technician shall contact Customer within one (1) hour of initial call.
- c. If the County's technician cannot repair the service interruption by telephone, County shall use commercially reasonable efforts to have its first maintenance employee or contractor at the site requiring repair within five (5) hours of the initial call to the NCAM. County will then work continuously until service has been restored.
- d. County shall use commercially reasonable efforts to notify Customer seven (7) days prior to the date of any planned non-emergency maintenance activity. In the event that a County planned activity is canceled or delayed for any reason as previously notified, County shall notify Customer as soon as reasonably possible and will comply with the provisions of the previous sentence to reschedule any delayed activity.

#### 3. Fiber Optic Network

- a. County shall maintain the fiber optic network in good and operable condition and shall repair the fiber in a manner consistent with industry standards and using commercially reasonable efforts.
- b. County shall perform appropriate routine maintenance on the fiber optic network in accordance with County's then current preventive maintenance procedures. County's maintenance procedures shall not substantially deviate from industry practice.

#### **4. Restoration**

- a. When restoring damaged fiber, the Parties agree to work together to restore all traffic as quickly as possible. County, immediately upon arriving on the site of the damage, shall determine the best course of action to be taken to restore the fiber and shall begin restoration efforts.
- b. It will be the responsibility of County and Customer to report to one another respectively any known environmental hazards which would restrict or jeopardize any maintenance work activities in shelters or right of way areas of operation.
- c. Upon notification of interruption of fiber optic network service, disrepair, impairment or other need for repair or restoration of the fiber and the location of the damaged fiber, County shall pursue commercially reasonable efforts to mobilize technicians to achieve necessary repair or restoration, including, but without limitation, having maintenance personnel at the affected site within five (5) hours after receipt of such notice with the required restoration material and equipment.
- d. In the event that Customer's use of the fiber optic network is interrupted due to an occurrence of a force majeure event, repairs and restoration shall be made as expeditiously as reasonably possible. Customer recognizes that five (5) hour response time represents optimal conditions, and may be impossible to achieve when emergency restoration of fiber optic network integrity is required or when responding to certain remote locations. Actual response times will be influenced by such factors as terrain, weather conditions present at the time the request is made and actual mileage to the fault site.
- e. For purposes of this section, "commercially reasonable efforts" means activities and performances consistent with prudent utility practice, existing contract provisions for County technicians and/or employees, practices required for preserving the integrity of the fiber optic network, and response times that do not jeopardize the health and safety of the employees, contractors and agents of County and Customer.

5. Customer shall be responsible for paying County standard maintenance fees for

any calls to County for maintenance issues related to the Fiber that County later confirms as resulting from another source other than functionality of the Fibers.

***Remainder of this page intentionally left blank.***

## APPENDIX C

### FIBER SPLICING AND TESTING STANDARDS AND PROCEDURES

#### 1. Fiber and Connector Standards

##### a. **Connector Standards**

The loss value of any pigtail connector and any associated fiber jumper or pigtail with matching mode field diameters will not exceed .5dB at 1550 nm. The loss value of a connector and its associated jumper with mismatched mode field diameters should not exceed .8 dB.

##### b. **Field Splice Standards**

The objective for each splice is an averaged loss value of 0.1 dB or less when measured bi-directionally with an OTDR at 1550 nm. In the event of damage and subsequent restoration of the Fibers, commercially reasonable efforts will be made to restore the Fibers to this standard. If after 3 restoration splicing attempts, County is not able to produce a loss value of 0.1 dB or less bi-directionally at 1550 nm, then 0.5 dB or less bi-directionally at 1550 nm will be acceptable. Fibers not meeting the 0.1 dB or less specification will be identified as Out Of Specification (OOS). Documentation of the three attempts (re-burns) to bring the OOS fiber within specification will be provided.

##### c. **Span Loss**

It is County's responsibility to insure proper continuity of all fibers at the fiber level, not just the pigtail level. Any "frogs" or fibers that cross in the route will be remedied by County. The following span loss calculation will be used:

$$(A * L) + (0.1 * N) + C = \text{Acceptable Span Loss}$$

A = Attenuation per KM at 1550 nm

L = Optical length of cable measured in kilometers (from OTDR Trace)

N = Number of splices in a span

C = Connector loss. The connector loss will not exceed .5dB. The section test will have (2) pigtail connectors/splices under test, so 1.0dB will be allowed for this loss.

*Remainder of this page intentionally left blank.*



Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of the Contract with Borders Perrin Norrander (BPN) for  
Marketing Agency of Record Services for the Tourism & Cultural Affairs Department

<b>Purpose/Outcome</b>	Approval of the first year of a potential five (5) year contract with Borders Perrin Norrander (BPN) as the marketing agency of record for Tourism & Cultural Affairs.
<b>Fiscal Impact</b>	Original Contract is \$1,015,000 broken down as Advertising (432400) \$730,000; Sales Materials (432403) \$165,000; and Professional Services (431000) \$120,000
<b>Funding Source</b>	Funds for this service contract are included in Tourism & Cultural Affairs FY17-18 budget. The contract is based on a “not to exceed” amount that is determined in the County budgeting cycle each year.
<b>Duration</b>	Original Contract October 1, 2017 through June 30, 2018. Option for renew for up to four (4) additional one-year terms through June 2022
<b>Strategic Plan Alignment</b>	Create and execute marketing strategies that promote to visitors this destination we call Oregon’s Mt. Hood Territory
<b>Previous Action</b>	BCC approval of original 5-year contract for FY2012-2017
<b>Contact Person</b>	Jeannine Breshears, Marketing & Programs Manager Danielle Cowan, Executive Director

**Background:**

The Tourism Development Council (TDC), on behalf of the County, has a contract with a marketing agency of record to work with the TDC and Tourism & Cultural Affairs staff to market as Oregon’s Mt. Hood Territory.

A Request for Proposals was published in April and fourteen (14) proposals were received. The evaluation committee was comprised of representatives from the TDC and Tourism department. Upon evaluation of the written proposals, three firms were invited to conduct oral presentations. Oral presentations required each of the three proposers to prepare a creative brief and present it to the evaluation committee. At the conclusion of the oral presentations, the proposal from Borders Perrin Norrander (BPN) was determined to be the one best meeting the County’s needs for this project.

This request is for approval of the first year of a potential five (5) year contract. For each subsequent year, a detailed scope of work and budget will be developed for approval by the Board.

County Counsel has reviewed and approved the terms of the marketing agency of record contract.

**Recommendation:**

Staff recommends the Board approve the first of a five (5) year contract with Borders Perrin Norrander (BPN) as the marketing agency of record for Tourism & Cultural Affairs.

Respectfully Submitted,

Danielle Cowan, Executive Director  
Tourism & Cultural Affairs

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



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between Borders Perrin & Norrander, Inc. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Tourism & Cultural Affairs Department.

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective October 1, 2017. Unless earlier terminated or extended, this Contract shall expire on June 30, 2018, with the option for four (4) additional one (1) year extensions thereafter subject to the mutual agreement of the parties.

2. Scope of Work. Contractor will provide the following personal/professional services: Marketing agency of record to provide a continuity of integrated marketing support ("Work"), further described in Exhibit A.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed \$1,015,000.00, for accomplishing the Work required by this Contract.

4. Travel and Other Expense. Authorized: [X] 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: http://www.clackamas.us/bids/terms.html.

5. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A (Scope of Work), B (Insurance), C (Certification Statement for Independent Contractor), D (Request for Proposals #2017-22 Tourism Marketing Agency of Record, E (Contractor's Proposal dated May 17, 2017), and F (2017-18 Fiscal Year Workplan).

6. Contractor Data.

Address: 520 SW Yamhill St., Ste 950, Portland, OR 97204

Contractor Contract Administrator: Lori Gaffney

Phone No.: 503-227-2506

Email: lgaffney@bpninc.com

MWESB Certification: [ ] DBE # [ ] MBE # [X] WBE #10704 [ ] ESB #

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

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or

suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
8. **INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
9. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Oregon Public Employees Retirement System); and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Exhibit C)

At present, the Contractor certifies that he or she, if an individual is not a program, County or Federal employee. The Contractor, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

10. **INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
11. **LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict



with law are deemed inoperative to that extent.

- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor or at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

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

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

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

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work

multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

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

(C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

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

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

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

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

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including

any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

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

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

**29. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

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

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Borders Perrin Norrande

Clackamas County

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jim Bernard, Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name / Title (Printed)

Approved as to Form:

\_\_\_\_\_  
618136-80

\_\_\_\_\_  
Oregon Business Registry #

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
DBC, Oregon

\_\_\_\_\_  
Entity Type / State of Formation

**EXHIBIT A**  
**PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall provide professional services related to developing and implementing integrated marketing and advertising plans for the Tourism & Cultural Affairs Department. Such services shall be performed in accordance with the Scope of Work outlined in Exhibit D and with the 2017-18 Fiscal Year Workplan outlined in Exhibit F. Within Exhibit F is the Budget Allocation and Media Recommendation that outlines the major marketing initiatives that will be undertaken for the fiscal year (July 1<sup>st</sup> to June 30<sup>th</sup>).

For the 2018-19 Fiscal Year Workplan, and all subsequent Fiscal Year Workplans, Contractor shall develop a detailed proposal of the next fiscal year's major projects that will be undertaken along with their key milestones, deliverable dates, and objectives that are to be accomplished. The draft proposal shall be presented to the Contract Administrator by no later than May 1<sup>st</sup> of each year.

The services under this Contract fall under three different service categories of: Retainer Services, Non-Retainer Services, and Media Buying. These services categories are outlined in Exhibit D. Fees for services may not be duplicative (example: charge an hourly rate for media planning and placement plus a media commission fee).

The County Contract Administrator for this Contract is: Danielle Cowan, Executive Director

**CONSIDERATION**

- A. Contractor will be compensated through three different fee structures:
  - 1) Retainer Services. Contractor shall be compensated on a fixed service fee of \$10,000 per month.
  - 2) Non-Retainer Services. Contractor shall be compensated on a time and material basis at the rates outlined in Exhibit E.
  - 3) Media Buying. Contractor shall be compensated on a commission rate of 12% of net media.
  
- B. Payment for all Work performed under this Contract shall be paid in arrears and subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of \$1,015,000.00. Invoices shall be submitted to: Jeannine Breshears, Tourism Programs Manager, 150 Beaver Creek Rd., Suite 245, Oregon City, OR 97045, or [jeannine@mthoodterritory.com](mailto:jeannine@mthoodterritory.com).
  
- C. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Payments shall be made to Contractor following the County's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
  
- D. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

**EXHIBIT B  
INSURANCE**

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

**1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.**

**Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.**

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

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

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

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

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

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

**5. Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

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



**EXHIBIT C**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

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

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

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

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

Additional provisions:

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

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