

# AGENDA

**Thursday, March 24, 2016 - 10:00 AM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2016-27

**CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

**I. 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.)*

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

1. Second Reading of Ordinance No. 01-2016 Amending Chapter 6.06, Parks Rules of the Clackamas County Code (Kathleen Rastetter, County Counsel) *first reading was 3-10-16*

**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 Oregon Department of Education, Early Learning Division for Healthy Families Program – *Children, Youth and Families*

**B. Finance Department**

1. Approval of a Contract with Brockamp & Jaeger, Inc. for a Membrane Roofing System and HVAC Replacement Project at the Clackamas County Jail
2. Resolution No. \_\_\_\_\_ for a Clackamas County Supplemental Budget (Less than 10%) for Fiscal Year 2015-2016
3. Resolution No. \_\_\_\_\_ for Clackamas County for Budgeting of New Specific Purpose Revenue for Fiscal Year 2015-2016

4. Resolution No. \_\_\_\_\_ for Clackamas County for Transfer of Appropriations for Fiscal Year 2015-2016
5. Resolution No. \_\_\_\_\_ Affirming that the Clackamas County 2015-2016 Fiscal Year Budget is Appropriated by Organizational Unit

**C. Elected Officials**

1. Approval of Previous Business Meeting Minutes – BCC

**D. Community Corrections**

1. Approval of Local Grant Agreement No. JR-15-032 between Clackamas County Community Corrections and Sub-Recipient Los Ninos Cuentan for Community –Based Victims Services Program

**E. Business & Community Services**

1. Board Order No. \_\_\_\_\_ Approving the List of Tax Foreclosed Properties for Declaration as Surplus at Established Minimum Bid Amounts
2. Approval of an Oregon State Marine Board Facility Grant Two Party Cooperative Agreement with Portland General Electric

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

1. Approval of a Funding Agreement between Clackamas County Development Agency and North Clackamas Parks and Recreation District

**V. DEVELOPMENT AGENCY**

1. Approval of a Funding Agreement between Clackamas County Development Agency and North Clackamas Parks and Recreation District

**VI. WATER ENVIRONMENT SERVICES**

*(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)*

1. Approval of the Intergovernmental Agreement between Clackamas County Service District No. 1 and the City of Happy Valley for Street Sweeping Services
2. Approval of the Intergovernmental Agreement between Clackamas County Service District No. 1 and the City of Gladstone for Environmental Monitoring and Laboratory Services

**VII. COUNTY ADMINISTRATOR UPDATE**

**VIII. COMMISSIONERS COMMUNICATION**

**NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. 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)



Gary Barth  
Director

**BUSINESS AND COMMUNITY SERVICES**

Development Services Building  
150 Beaver Creek Road Oregon City, OR 97045

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Second Reading of Ordinance 01-2016 Amending Chapter 6.06, Park Rules,  
Of the Clackamas County Code

<b>Purpose/Outcomes</b>	Minor revisions to Code language to improve the customer experience
<b>Dollar Amount and Fiscal Impact</b>	n/a
<b>Funding Source</b>	n/a
<b>Duration</b>	In effect until further amended or repealed.
<b>Previous Board Action</b>	Parks Advisory Board recommended the changes at its February 16, 2016 meeting. BCC held first reading of ordinance on March 10, 2016.
<b>Strategic Plan Alignment</b>	n/a
<b>Contact Person</b>	Rick Gruen, Manager County Parks
<b>Contract No.</b>	503-742-4345

**BACKGROUND:**

The Parks Advisory Board met on February 16, 2016 and reviewed proposed housekeeping changes to Chapter 6.06, Park Rules, of the Clackamas County Code. The changes were approved by the Parks Advisory Board and are now in front of the Board of County Commissioners for review and approval. The Board of County Commissioners held a first reading of the ordinance on March 10, 2016.

**RECOMMENDATION:**

Adopt the proposed amendments to Chapter 6.06, Park Rules, of the Clackamas County Code by having a second reading of the ordinance for March 24, 2016.

Respectfully submitted,

Gary Barth, Director  
Business and Community Services

**ORDINANCE NO. 01-2016**

**An Ordinance Amending Chapter 6.06 Park Rules of the Clackamas County Code**

WHEREAS, the Board finds that clarification to certain provisions of Chapter 6.06, Park Rules, would align park reservation procedures with the rules; and

WHEREAS, the Clackamas County Parks Advisory Board met on February 16, 2016 and tentatively approved the changes; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Subsection 6.06.020(A) of the Clackamas County Code is hereby amended to read as follows:

**6.06.020 Definitions**

A. APPROVED CAMPING SHELTER means ground tents, motorhomes, travel trailers, vans and camper units designed specifically for overnight, outdoor camping, such as Class A, B or C vehicles, towables, and truck campers.

\*\*\*\*\*

**Section 2:** Subsection 6.06.030(Q) of the Clackamas County Code is hereby amended to read as follows:

**6.06.030 Opening, Closing, Entry Into Parks**

\*\*\*\*\*

Q. Campsites may be accommodated with any approved camping shelter except in those areas that have a specific designated usage, i.e., RV only, ground tent only.

\*\*\*\*\*

**Section 3:** Section 6.06.040 of the Clackamas County Code is hereby amended to read as follows:

**6.06.040 Reservations And Check In/Out Times**

A. Online reservations for camping, sheltered and picnic areas must be made a minimum of 3 days in advance. The Division reserves the right to cancel any reservation, that has not been paid as per contract.

- B. Cancellations must be made at least two (2) weeks prior to the reserved date in order for the site costs to be refunded (reservation fees are non-refundable).
- C. Cancellations or reductions in the number of reserved campsites must be made at least two (2) weeks prior to the reserved date in order for the site costs to be refunded (reservation fees are non-refundable).
- D. Check-in time for all overnight camping sites is established at 3:00 p.m. and check-out time is established at 1:00 p.m. the following day. Campsites not vacated by 1:00 p.m. shall be subject to charge of fees for an additional night, if the campsite is available and not reserved for that time period.
- E. If a campsite has been reserved for use by another party for that night, and the campsite has not been vacated by the non-reserved party by check-out time:
  - 1. The non-reserved party shall vacate the site immediately or be subject to eviction;
  - 2. The non-reserved party shall be subject to exclusion from Clackamas County parks pursuant to this chapter;
  - 3. Any vehicle occupying the campsite after check-out time other than a vehicle of the reserved party is parked in violation of this chapter, and may be immediately towed away without prior notice at the owner's expense under the provisions of the Clackamas County Vehicle Parking and Towing Chapter; and
  - 4. Park employees may remove any personal property remaining on the campsite other than property of the reserved party.
- F. Individual campers or small groups reserving ADA accessible sites must provide documentation upon making the reservation or the reservation may be forfeited.  
*Note: Large group reservations of all campsites in a campground loop or park are excluded from this rule.*

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.14; amended by Ord. 04-2013, 8/22/13; amended by Ord. 02-2014, 5/22/14]

ADOPTED this \_\_\_\_\_ day of March, 2016

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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

March 24, 2016

Board of Commissioners  
Clackamas County

Approval of an Intergovernmental Agreement with Oregon Department of Education,  
Early Learning Division for Healthy Families Program

<b>Purpose/Outcomes</b>	Healthy Families programming includes screening and home visiting services to high risk families initiated prenatally and at the time of birth through the child's third birthday to promote healthy child development and reduce the risk of child abuse/neglect.
<b>Dollar Amount and Fiscal Impact</b>	\$1,521,282 There is a 25% local match requirement as part of this agreement generated through partnership with the non-profit subcontractor of Healthy Families Home Visiting services.
<b>Funding Source</b>	Oregon Department of Education Early Learning Division
<b>Duration</b>	Effective January 1, 2016 through September 30, 2017
<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 7602

**BACKGROUND:**

The Children, Youth and Families Division of the Health, Housing & Human Services Department requests the approval of an Intergovernmental Agreement with the Oregon Department of Education (ODE), Early Learning Division for Healthy Families Program. Services to be provided under this contract include educating parents on how to recognize and respond to their baby's cues and needs at every developmental stage; modeling positive parent-child interaction that promotes healthy brain development; educating parents on the importance of immunizations and well-baby checks; connecting parents and children to medical providers; screening for maternal depression and child developmental delays; teaching parents positive discipline techniques; and connecting parents to community resources.

This agreement has a maximum value of \$1,521,282 and was reviewed by County Counsel on March 3, 2016. No County general funds are involved. It is retroactive to January 1, 2016 because it was received from ODE in February and required review by County Counsel and Risk Management before processing.

**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

*Healthy Families. Strong Communities.*

**Agreement Number 6175**

**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.

This Agreement is between the State of Oregon, acting by and through its Department of Education (ODE) on behalf of its Early Learning Division(ELD) and the Early Learning Council (ELC),and,

**Clackamas County  
2051 Kaen Road  
Oregon City, Oregon 97045  
Telephone: (503) 650-5678  
Facsimile: (503) 650-5674  
E-mail address: [rodcoo@co.clackamas.or.us](mailto:rodcoo@co.clackamas.or.us)**

hereinafter referred to as “County.”

Work to be performed under this Agreement relates principally to the ODE

**Early Learning Division  
775 Summer Street  
Salem, Oregon 97301  
Agreement Administrator: Erin Deahn or delegate  
Telephone: 503-378-6768  
E-mail address: [Erin.Deahn@state.or.us](mailto:Erin.Deahn@state.or.us)**

**1. Effective Date and Duration.**

Upon signature by all applicable parties, this Agreement shall become effective on the later of: (i) January 1, 2016 or, (ii) when required, the date this Agreement is approved by the Department of Justice. . Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate on September 30, 2017. 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: Required Federal Terms and Conditions
- (7) Exhibit E: Family Support Services Funding Requirements
- (8) Attachment 1: Activity Codes

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, C, E and all Attachments.

**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 **\$1,521,282.00**. ODE 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.** ODE 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, ODE’s determination is that:

County is a sub-recipient; **OR**  County is a vendor.



Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.556 (Family Support Services – Title IV-B2)

**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):** \_\_\_\_\_

Street address: \_\_\_\_\_

City, state, zip code: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone: (     ) \_\_\_\_\_ Facsimile: (     ) \_\_\_\_\_

Federal Employer Identification Number: \_\_\_\_\_

**Proof of Insurance:**

Workers' Compensation Insurance Company: \_\_\_\_\_

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

The above information must be provided prior to Agreement approval. County shall provide proof of Insurance upon request by ODE or ODE 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) Under penalty of perjury the undersigned is authorized to act on behalf of County and that County is, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS

310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620;

- (2) The information shown in this Section 5., County Data and Certification , is County's true, accurate and correct information;
  - (3) 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;
  - (4) 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:  
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;
  - (5) 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
  - (6) 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 ODE is true and accurate. If this information changes, County is also required to provide ODE 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.**

**Clackamas County:**

**By:**

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Authorized Signature	Title	Date
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**State of Oregon acting by and through its Department of Education**

**By:**

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Authorized Signature	Title	Date
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**Approved for Legal Sufficiency: Approved by Mark Williams via email dated 2/22/2016**

Other review Signatures:

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Authorized Signature	Title	Date
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## EXHIBIT A

### Part 1 Statement of Work

#### 1. Preamble

ELD supports Oregon's young children and families to learn and thrive. All of our work is in service to children, families and communities. ELD knows that historically underserved communities represent Oregon's best opportunity to improve educational outcomes. Strength-based approaches and asset-based mindsets will support our efforts to institutionalize equity. ELD recognizes in order for each and every child and family to learn and thrive, ELD has to provide differentiated, person-centered resources and support.

ELD supports culturally responsive services that are respectful of, and relevant to, the beliefs, practices, culture and linguistic needs of diverse consumer/client populations and communities. Cultural responsiveness describes the capacity to respond to the issues of diverse communities and requires knowledge and capacity at different levels of intervention and service delivery: systemic, organizational, professional and individual.

#### **ELD Contractors and Service Providers shall:**

- a. Work to build a service delivery climate that promotes acceptance, inclusion and respect for cultural and linguistic diversity;
- b. Develop and understanding of the communities they serve, in a non-static manner, including their culture, values, norms, history, customs, and particularly types of discrimination, marginalization and exclusion they face in this country. This knowledge needs to be applied in a responsive, non-limiting and non-stereotyping manner;
- c. Interact with service users in a way that demonstrates understanding of cultural norms, values, everyday practices and routines, including food, greetings and family conventions;
- d. Engage in continuous learning about their own biases, assumptions and stereotypes that limit their ability to be culturally responsive, and to understand how these biases affect their work with service users and use this knowledge to engage service users at a higher level of inclusion and respect; and
- e. Utilize data to understand the service population and to determine service needs. Data must be used in the determination of target populations and the prioritization of services.

#### 2. Definitions:

- a. **Eligible Families:** Families prenatally through the child's third birthday and may include a transition period following the child's birthday.

- b. Family Service Units (FSU):** Family Services Units are the number of families a home visitor has on their case load per day based on a point structure outlined by Healthy Families America. For the purpose of calculating the daily number of expected FSU's for this Agreement, the number of home visitors employed by the County on any given day is multiplied by 16.
- c. Health Families Services:** Healthy Families Services are voluntary and non-stigmatizing services that promote the development of healthy, thriving children and strong, nurturing families. Services range from universal basic short-term services to long-term intensive home visiting for high risk families. Healthy Families Services are typically initiated prenatally and at the time of birth, and target high risk families. Healthy Families Services are offered until the child's third birthday and as needed during a transition period following the birthday to assure connection to other school readiness services for the family. Services follow evidence-based practices designed to achieve appropriate early childhood benchmarks, following the Healthy Families America model.
- d. Provider or Service Provider:** Any entity or individual working in early learning and development programs including but not limited to center-based and family child care providers, infant and toddler specialists, early intervention specialists and early childhood special educators, home visitors, Respite Care providers, related service providers, administrators, Head Start teachers, Early Head Start teachers, preschool and other teachers, teacher assistants, family service staff, and health coordinators.
- e. Service Delivery Area: Clackamas County,** the geographic area in which County will be coordinating or providing Healthy Family Services required by this Agreement.

### **3. Service Requirements:**

During the term of this Agreement and as further described below, County shall maintain a minimum of 85% of the daily number of expected Family Service Units (FSU) (as described in the definition of Family Service Units above). If County falls below 85% of the expected FSUs in any quarter, ODE shall meet with the County to determine the reasons for the failure to maintain at least 85% of the expected number of FSUs. The failure to maintain at least 85% of the expected number of FSUs during a single quarter shall not constitute a default under this Agreement if County is able to explain the failure to ODE's reasonable satisfaction and County takes action to remedy the failure in the following quarter. If the County fails to maintain at least 85% of the expected number of FSUs for two consecutive quarters, County shall be in default under this Agreement and ODE may exercise any of its remedies under this Agreement, including but not limited to assisting County in curing the default through technical assistance, putting the County on a work plan, or proposing an amendment to this Agreement to decrease the FSUs and associated funding.

Subject to the forgoing FSU requirement, County shall deliver Healthy Families Services either directly or through subcontracted Providers to all Eligible Families in the Service Delivery Area seeking such services.

- a. County shall design and deliver Healthy Families Services directly or through sub-contracted Providers. Healthy Families Services must be provided in accordance with the Healthy Families America model and minimum standards set forth in ORS 417.795 and OAR 414-525-0005 through 414-525-0015.
- b. County, to the extent it is providing Healthy Families Services under this Agreement directly, and subcontracted Providers of Healthy Families Services under this Agreement must:
  - (1) Collaborate with other home visiting Providers in the Service Delivery Area to identify and build upon existing services for families and to prioritize additional services if needed (i.e.: mental health, drug and alcohol, and early intervention). As necessary, and to the extent resources are available, ODE will provide technical assistance to promote improved collaboration;
  - (2) Participate in local HUB and other community efforts to implement supports and services towards the achievement of desired outcomes, working to maximize the effective use of available resources and to avoid duplication of services;
  - (3) Participate in the independent statewide program evaluation;
  - (4) Participate in statewide training for Healthy Families Services program managers, supervisors, home visitors and screening staff;
  - (5) Participate in annual meetings and trainings for Healthy Families Services program managers;
  - (6) Meet statewide performance and outcome indicators outlined in the Healthy Families Program Policy and Procedure Manual;
  - (7) Participate in the Healthy Families America (“HFA”) site self-assessment, as part of ongoing quality assurance and HFA accreditation as required at a minimum of every 5 years;
  - (8) Develop site specific procedure manuals to further specify local service delivery procedures. A subcontracted Provider’s local procedure manuals must be submitted to ODE at intervals specified by ODE;
  - (9) Obtain prior written consent from the family utilizing the Consent to Participate form before any Healthy Families Services are offered to an Eligible Family;

- (10) Obtain the parent’s prior written consent for release of information about the parent’s child or parent;
- c. Healthy Families Services are voluntary and may not be included in a mandated plan for families from any Governmental Entity or Program. Mandated plans include plans developed by the Department of Human Services (DHS) Self Sufficiency and Child Welfare services.
- d. New subcontracted Providers of Healthy Families Services (Providers that have not previously provided such services) must make progress toward full compliance with ORS 417.795 as operationalized by the Healthy Families: Statewide Program Policy and Procedure Manual. All subcontracted Providers of Healthy Families services must be in full compliance within one year of initial services delivery.

**NOTE:** Copies of the Healthy Families America Best Practice Standards Manual and Healthy Families Program Policy and Procedure Manual are available at: <http://oregonearlylearning.com/healthy-family-providers-page/>

- e. County and each subcontracted Provider shall complete an equity self-assessment by June 30, 2016 in the tool developed ELD.
- f. County and each subcontracted Provider shall complete a demographic analysis by June 30, 2017 in the tool developed ELD, that compares the population demographics of the Coverage Area with the actual population served.
- g. County and each subcontracted Provider shall require all staff providing direct services to complete an open source training by June 30, 2016 on structural racism. ELD will provide specific training documents.

#### **4. Medicaid Administrative Claiming Requirements:**

Under Title XIX of the Social Security Act (“the Act”), the federal government and states share the cost of funding the Medicaid program, which provides medical assistance to certain low-income individuals. Federal Financial Participation (“FFP”) is the federal government’s share for states’ Medicaid program expenditures. The State is required to share in the cost of medical assistance expenditures, and the Act permits both state and local governments to participate in the financing of the non-Federal portion of medical assistance expenditures (“State Share”). States may claim FFP for providing administrative activities that are found to be necessary by the Secretary of the U.S. Department of Health and Human Services (“DHHS”), Centers for Medicare and Medicaid Services (“CMS”) for proper and efficient administration of the Title XIX Medicaid Oregon State Plan (the “State Medicaid Plan”).

The Oregon Medicaid program is administered by the Oregon Health Authority (“OHA”), pursuant to ORS 409.010(3). OHA has an interagency agreement with ODE

that authorizes ODE to provide for the delivery of Medicaid administrative activities in connection with the delivery of Healthy Families Services under ORS 417.795 and to claim FFP for such activities. ODE provides for the delivery of those Medicaid administrative activities in the Service Delivery Area through this Agreement.

ODE and County desire to improve health services access and availability for children and families eligible for medical assistance under Medicaid who reside in the Service Delivery Area and, accordingly, in connection with the delivery of Healthy Families Services, County shall during the term of this Agreement, either directly or through subcontracted Providers, perform Medicaid administrative activities in the Service Delivery Area as follows:

- a. **Training Requirements:** All County and subcontracted Provider staff that will perform Medicaid administrative activities under this Agreement must attend training provided by or coordinated through ODE prior to performing such activities and annually thereafter.
- b. **Service Requirements:**
  - (1) County, to the extent it is providing Healthy Families Services under this Agreement directly, and subcontracted Providers of Healthy Families Services under this Agreement must:
    - A. Enroll with the OHA, Division of Medical Assistance Programs (“DMAP”), to provide Medicaid services;
    - B. In connection with its delivery of Healthy Families Services under this Agreement, perform Medicaid administrative activities that support administration of the State Medicaid Plan including:
      - i. Outreach activities to inform families about health services and benefits;
      - ii. Case Planning/Referral/Interagency Coordination; and
      - iii. Wellness activities and preventative health care services.
    - C. Participate in required time studies during the four days each quarter designated by ODE, using the form (paper and electronic) provide by ODE and including all employees performing Medicaid administrative activities during the quarter in connection with the delivery of Healthy Families Services under this Agreement.
    - D. Utilize the Activity Codes in Attachment 1 and time study methodology designated by ODE to document the time spent on all activities performed during the designated four-day period.
    - E. Comply with all requirements of 42 CFR 434.6 as applicable.
    - F. Counsel Medicaid eligible families that they are free to accept or



reject Medicaid services and to receive such service from an enrolled provider of their choice unless otherwise restricted to a provider of the Oregon Health Plan by OHA.

- (2) County shall notify subcontracted Providers of the time study dates for each quarter. Time study dates are randomly determined by ODE.

**5. Agreement Administration:**

- a. If a subcontracted Provider fails to maintain at least 85% of its expected FSUs (based on the number of home visitors the Provider employees), County shall address the performance deficiencies with the subcontracted Provider including implementation of corrective action plans to improve performance and take corrective action as needed. If ODE provides technical assistance to a subcontracted Provider to address performance deficiencies, County shall be present at all subcontracted Provider site visits and corrective action plans will be issued directly to the County.
- b. County shall monitor subcontracted Providers to ensure fiscal and programmatic integrity.
- c. County shall require subcontracted Providers to provide a 60 day advance notice if for any reason the Provider of Healthy Families Services intends to stop providing the subcontracted services prior to the end of the contract. County shall then immediately notify ODE so that it can provide program specific training and technical assistance. County and ODE may mutually agree to a notice period of less than 60 days if necessitated by specific local circumstances.

**6. Reporting:**

- a. County shall submit reports to ODE in accordance with the QA Calendar. QA Calendar can be found at <http://oregonearlylearning.com/healthy-family-providers-page/>. All required reports due in any given quarter must be received by the Agreement Administrator prior to any payments being released for that quarter.
- b. County shall ensure all home visit completion data is entered into the HFO statewide data system each quarter prior to any payments being released for that quarter.
- c. County must report to ODE yearly on the use of Medicaid Administrative Claiming (Title XIX) funds disbursed to County.
- d. Equity Report: Utilizing the information provided by the equity self-assessment tool and demographic analysis, identify gaps in services by June 30, 2017 and provide a written report to ODE.

**7. Data Requirements:**

- a. County must maintain and provide to ODE upon request, the following information:
  - (1) The following information on County employees who perform Medicaid administrative activities under this Agreement and subcontracted Provider employees who perform Medicaid administrative activities under County's contract with Provider: the name, title, job description, education level, salary, and other personnel expenses for each employee;
  - (2) Cost information: records to indicate the nature and extent of cost of Medicaid administrative activities performed, and other resources that have been applied to offset costs;
  - (3) Time study records; and
  - (4) Any other information applicable to the Medicaid administrative activities performed under County's contract with a subcontracted Provider.
  - (5) Provide, upon request, to ODE, OHA, the Oregon Department of Justice, the Oregon Secretary of State, or federal officials, all records that support Medicaid claims for Medicaid administrative activities.

**8. Fiscal Requirements:**

- a. **Medicaid Administrative Claiming:** As set forth below, and otherwise in accordance with procedures designed by ODE, County, to the extent it is providing Healthy Families Services under this Agreement directly, and subcontracted Providers of Healthy Families Services under this Agreement must participate in federal Medicaid (Title XIX) Administrative Claiming for Medicaid administrative activities performed in connection with the delivery of Healthy Families Services, as follows:

- (1) County must submit to ODE within the designated time period after the close of each calendar quarter during the term of this Agreement, information necessary for developing a Medicaid claim for Medicaid administrative activities performed during the prior quarter, including:
  - A. A list of the County and subcontracted Provider employees identified as performing Medicaid administrative activities during the quarter in connection with the delivery of Healthy Families Services under this Agreement;
  - B. Salary and other personnel expenses for each identified employee;
  - C. The actual four-day time study record, of all activities performed by each employee identified as performing Medicaid administrative activities during the quarter in connection with the

- delivery of Healthy Families Services under this Agreement.
- D. The costs of Medicaid administrative activities performed by County and subcontracted Providers during the quarter, as determined by County's time study and related information and by the time study and related information submitted by Providers to County.
- (2) Subject to the limitations and exclusions set forth elsewhere in this Agreement, County may include in the information it submits to ODE for developing the quarterly Medicaid claim for Medicaid administrative activities, Medicaid indirect costs incurred during the quarter. Medicaid indirect costs include costs associated with administering the delivery of Medicaid administrative activities authorized under this Agreement with subcontracted Providers, such as implementation of the time study requirements. County's actual Medicaid indirect costs must be documented and justifiable.
- (3) Allowable costs of Medicaid administrative activities are separate from any other direct Medicaid or other services that may be provided pursuant to separate Medicaid funding agreements or authorizations.
- (4) Based on the information submitted by County, ODE will calculate after the end of each quarter the allowable costs of Medicaid administrative activities performed during preceding quarter ("Allowable Administrative Costs") and send the County a copy of the Allowable Administrative Claim.

**b. Medicaid Administrative Claiming Payments:**

- (1) Subject to the conditions set forth below, ODE shall disburse to County within 30 days after the end of the quarter, the amount of the Allowable Administrative Claim (the "Medicaid Earnings"). The Medicaid Earnings, except as described in 423-010-0023(3), must be used to maintain or expand Healthy Families program core services, as defined in the Healthy Families Program Policy and Procedure Manual.

ODE's quarterly payment obligation is conditioned on ODE receiving payment from OHA of the FFP for the Allowable Administrative Claim (ODE will provide the State Share).

- c. Local Match:** County must demonstrate a 25% percent local match of the funds paid to County under this Agreement (other than Medicaid Earnings). At least 5% of the 25% percent must be cash or cash equivalent and expended on the delivery of Healthy Families Services in the Service Delivery Area, with the remaining percent in any combination of cash, cash equivalent, in-kind or volunteer hours expended on or utilized in the delivery of Healthy Families

Services in the Service Delivery Area. Local match must be included as part of County's base operating budget.

**d. Budget:**

- (1) County shall submit a final initial budget for the period beginning January 1, 2016 through June 30, 2017 and a final initial budget for the period beginning July 1, 2017 through September 30, 2017 (the budgets must include all funds anticipated to be received under this Agreement including the local match) (Medicaid Earnings should be reflected in a separate line item), by January 28, 2016, to ODE for review and final approval. The budgets must include the expenses of all subcontracted Providers.
- (2) No later than August 31, 2017, County shall submit budgets for the period beginning October 1, 2017 through June 30, 2019 and for the period beginning July 1, 2019 through September 30, 2019 (the budgets must include all funds anticipated to be received under this Agreement, including the local match) (Medicaid Earnings should be reflected in a separate line item) for the delivery of Healthy Families Services in the Service Delivery Area to ODE utilizing the approved budget template provide by ODE. The budget must include the expenses of all subcontracted Providers. County shall submit budgets to ODE for the corresponding periods no later than August 31, 2019, and no later than August 31 of every other year thereafter.
- (3) The designated program manager must be included in the development and monitoring of County's Healthy Families Services budget.
- (4) The annual budget must limit all administrative overhead cost (including administrative overhead of subcontracted Providers) to 10% of personnel costs.

- e. Oregon Cooperative Purchasing Program (ORCPP):** County is encouraged to participate in the ORCPP program, which enables County to utilize available Price Agreements for purchase of good or services to support HFO.

**9. Fiscal Restrictions:**

As described in greater detail in Attachment 1, the allowable costs of Medicaid administrative activities are limited as follows:

- a. Medicaid does not pay for administrative expenditures related to, or in support of, services that are not included in the State Medicaid Plan, the Oregon Health Plan, or services which are not reimbursed under Medicaid.
- b. Medicaid does not pay for health care services that are rendered free of charge to the general population. Thus, any administrative activity which supports the

referral, coordination, planning of screening or services that are provided free to the general population would not be considered as Medicaid administration.

- c. Duplicate payments are not allowable when determining administrative costs under Medicaid. Payments for allowable activities must not duplicate payments that have been or should have been included and paid as part of a rate for services, part of a capitation rate, or through some other local, State or federal program. Medicaid administrative costs may not be claimed for activities that are integral parts or extensions of medical services. Furthermore, in no case shall County be reimbursed more than the actual cost of the activities claimed by County under this Agreement.

## EXHIBIT A

### Part 2 Payment and Financial Reporting

#### 1. Payment Provisions

- a. As consideration of services provided by County during the period specified in Section 1. Effective Date and Duration, ODE will pay, in accordance with the payment provisions of this Agreement, an amount not to exceed the amount specified in Section 3.a Consideration of this Agreement, to be paid as follows:

**January 1, 2016 through June 30, 2017:**

HFO Services:	Up to \$1,011,759.00
Family Support (Title IV-B2):	Up to \$106,197.00
Medicaid Earnings:	Up to \$186,000.00

**July 1, 2017 through September 30, 2017:**

HFO Services:	Up to \$168,627.00
Family Support (Title IV-B2):	Up to \$17,699.00
Medicaid Earnings:	Up to \$31,000.00

Other than Medicaid Earnings (which will be paid as described in Exhibit A, Part 1), interim payments will be made after the end of each calendar quarter on an expense reimbursement basis for expenses actually incurred during the prior quarter, within the Budget line items, for the delivery of Healthy Families Oregon services under this Agreement; provided, however, that interim payments of Family Support (Title IV-B2) funds will only be made to reimburse expenses actually incurred during that quarter that, in addition to the foregoing requirements, also satisfy the Family Support Services Funding Requirements set forth in Exhibit E.

County may, upon written notice to ODE, move up to 10% of the funds in any one Budget line item (other than the Medicaid Earnings line item) to any other Budget line item (other than the Medicaid Earnings line item). Any other Budget modifications are subject to and conditioned on ODE's written approval

- b. All payments under this Agreement (other than payment of Medicaid Earnings) are subject to ODE's receipt and approval of an invoice. County shall send all invoices to ODE at the address specified on page 1, or to any other address as ODE may indicate in writing to County. The invoice shall describe the work performed and expenses incurred during the period covered by the invoice.

County's claims to ODE for overdue payments on invoices are subject to ORS 293.462.

- c. Payments under this Agreement are further conditioned on (1) no default by County under this Agreement, (2) entry of all home visit data for the prior quarter, and (3) ODE's receipt and approval of County's report as specified in **EXHIBIT A, Part 1, Statement of Work, Section 6. Reporting.**

**2. Travel Expenses.**

ODE shall not reimburse County for any travel expenses under this Agreement.

## **EXHIBIT A**

### **Part 3 Special Terms and Conditions**

#### **1. Confidentiality of Client Information.**

- a.** All information as to personal facts and circumstances obtained by the County on the client shall be treated a 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 Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- b.** The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- c.** ODE, County and any subcontractor will share information as necessary to effectively serve ODE clients.

#### **2. Amendments.**

- a.** ODE reserves the right to amend or extend the Agreement under the following general circumstances:
  - (1) ODE may extend the Agreement for additional periods, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODE's satisfaction with performance of the work or services provided by the County under this Agreement.
  - (2) ODE may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if ODE so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b.** ODE further reserves the right to amend the Statement of Work based on the original scope of work of RFP # DASPS-2365-15 or the following:
  - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
  - (2) Implement additional phases of the Work; or
  - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.



- c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 22 “Amendments” of this Agreement.

**3. Background Checks. Reserved.**

- 4. Media Disclosure.** The County will not provide information to the media regarding a recipient of services purchased under this Agreement without first consulting the Agreement Administrator. The County will make immediate contact with the ODE office when media contact occurs. The Agreement Administrator will assist the County with an appropriate follow-up response for the media.

**5. Mandatory Reporting. Reserved**

- 6. Nondiscrimination.** The County must provide services to ODE clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language and other special needs of clients.

## EXHIBIT B

### Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT 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 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.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of Client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. 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 ODE, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.
3. **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.
4. **Representations and Warranties.**
  - a. County represents and warrants as follows:
    - (1) **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.
    - (2) **Due Authorization.** The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable

law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County 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.

- (3) 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.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

**b.** ODE represents and warrants as follows:

- (1) Organization and Authority. ODE has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) Due Authorization. The making and performance by ODE of this Agreement (a) have been duly authorized by all necessary action by ODE and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which ODE is a party or by which ODE 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 ODE of this Agreement, other than approval by the Department of Justice if required by law.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by ODE and constitutes a legal, valid and binding obligation of ODE, enforceable in accordance with its terms subject to the laws of bankruptcy,

insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

- c. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**5. Funds Available and Authorized; Payments.**

- a. The State of Oregon's payment obligations under this Agreement are conditioned upon ODE receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODE, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODE. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. ODE represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.
- b. Payment Method. Payments under this Agreement will be made by Electronic Funds Transfer (EFT), unless otherwise mutually agreed, and shall be processed in accordance with all Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County shall provide this designation and information on a form provided by ODE. In the event that EFT information changes or the County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the County shall provide the changed information or designation to ODE on a ODE-approved form. ODE is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from the County.

- 6. Recovery of Overpayments.** If billings under this Agreement, or under any other Agreement between County and ODE, result in payments to County to which County is not entitled, ODE, after giving to County written notification and an opportunity to object, may withhold from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment, subject to Section 7 below. Prior to withholding, if County objects to the withholding or the amount proposed to be withheld, County shall notify ODE that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

- 7. Compliance with Law.** Nothing in this Agreement shall require County or ODE to act in violation of state or federal law or the Constitution of the State of Oregon.

## 8. Ownership of Intellectual Property.

- a. Definitions. As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- (1) "County Intellectual Property" means any intellectual property owned by County and developed independently from the Work.
  - (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODE or County.
  - (3) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that County is required to deliver to ODE pursuant to the Work.
- b. Original Works. All Work Product created by County pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of ODE. ODE and County agree that all Work Product is "work made for hire" of which ODE is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," County hereby irrevocably assigns to ODE any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon ODE's reasonable request, County shall execute such further documents and instruments necessary to fully vest such rights in ODE. County forever waives any and all rights relating to original Work Product created pursuant to the Work, 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.
- c. In the event that Work Product is County Intellectual Property, a derivative work based on County Intellectual Property or a compilation that includes County Intellectual Property, County hereby grants to ODE an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display County Intellectual Property and the pre-existing elements of the County Intellectual Property employed in the Work Product, and to authorize others to do the same on ODE's behalf.
- d. In the event that Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, County shall secure on ODE's behalf and in the name of ODE 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 the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on ODE's behalf.

- e. If state or federal law requires that ODE or County grant to the United States a license to any intellectual property, or if state or federal law requires that the ODE or the United States own the intellectual property, then County shall execute such further documents and instruments as ODE may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODE
  - f. County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODE may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.
- 9. 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;
  - b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by ODE to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;
  - c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
  - d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) 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. ODE Default.** ODE shall be in default under this Agreement upon the occurrence of any of the following events:

- a. ODE 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 ODE herein or in any documents or reports relied upon by County to measure performance by ODE is untrue in any material respect when made.

**11. Termination.**

a. County Termination. County may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to ODE;
- (2) Upon 45 days advance written notice to ODE, 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 the reasonable exercise of its administrative discretion;
- (3) Upon 30 days advance written notice to ODE, if ODE 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
- (4) Immediately upon written notice to ODE, 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. ODE Termination. ODE may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to County;
- (2) Upon 45 days advance written notice to County, if ODE does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODE under this Agreement, as determined by ODE in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODE may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODE's legislative authorization for expenditure of funds to such a degree that ODE will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODE in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;

- (3) Immediately upon written notice to County 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 ODE no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
  - (4) 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 ODE may specify in the notice;
  - (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no longer meets requirements to perform the Work. ;
  - (6) Immediately upon written notice to County, if ODE determines that County or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.
- c. Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

**12. Effect of Termination**

- a. Entire Agreement.
  - (1) Upon termination of this Agreement, ODE shall have no further obligation to pay County under this Agreement.
  - (2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.
- b. Obligations and Liabilities. Notwithstanding Section 12.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

**13. Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

**14. Insurance.** County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

**15. Records Maintenance; 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 ODE and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

**16. Information Privacy/Security/Access. Reserved**

**17. Force Majeure.** Neither ODE nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of ODE or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODE may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or default will likely prevent successful performance of this Agreement.

**18. Assignment of Agreement, Successors in Interest.**

- a. County shall not assign or transfer its interest in this Agreement without prior written approval of ODE. Any such assignment or transfer, if approved, is subject to such conditions and provisions as ODE may deem necessary. No approval by ODE of any assignment or transfer of interest shall be deemed to create any obligation of ODE in addition to those set forth in the Agreement.
- b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

**19. Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

**20. Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without ODE'S prior written consent. In addition to any other provisions ODE may require, County shall include in any permitted subcontract under this Agreement provisions to require that ODE will receive the benefit of subcontractor performance as if the subcontractor were the County with respect to Sections 1, 2, 3, 4, 8,

15, 16, 18, 21, and 23 of this Exhibit B. ODE'S consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.

21. **No Third Party Beneficiaries.** ODE and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County's performance under this Agreement is solely for the benefit of ODE to assist and enable ODE to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
22. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and when required the Department of Justice. Such amendment, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.
23. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
24. **Survival.** Sections 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 26, 28, 30 and 31 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination 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.
25. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or ODE at the address or number set forth below, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed shall be effective five days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party at number listed below. Any communication or notice given by personal delivery shall be effective when actually delivered to the addressee.

**ODE:**           **Karen Hull**  
255 Capital Street NE  
Salem, OR 97301  
Telephone: 503-947-5647  
Facsimile: 503-378-5156

26. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
27. **Counterparts.** 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 this Agreement and any amendments so executed shall constitute an original.
28. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
29. **Construction. Reserved**
30. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 30, with respect to the Third Party Claim.

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

With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable

considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- 31. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
- 32. Stop-Work Order.** ODE may, at any time, by written notice to the County, require the County to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODE shall either:
- a.** Cancel or modify the stop work order by a supplementary written notice; or
  - b.** Terminate the Agreement as permitted by either the Default or the Convenience provisions of Section 11. Termination.

If the Stop Work Order is canceled, ODE may, after receiving and evaluating a request by the County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

- 33. Time is of the Essence.** County agrees that time is of the essence under this Agreement.

## EXHIBIT C

### Subcontractor Insurance Requirements

**General Requirements.** County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODE. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with whom the county directly enters into a contract. It does not include a subcontractor with whom the contractor enters into a contract.

- 1. Workers' Compensation.** Insurance must be 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.

- 2. Professional Liability.**

Required by ODE  Not required by ODE.

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than the following, as determined by ODE:

\$3,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

**Commercial General Liability.**

Required by ODE  Not required by ODE.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to ODE. This insurance shall include personal injury liability, products and completed operations. Coverage shall be

written on an occurrence form basis, with not less than the following amounts as determined by ODE:

**Bodily Injury, Death and Property Damage:**

\$3,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

**Automobile Liability.**

Required by ODE  Not required by ODE.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by the ODE:

**Bodily Injury, Death and Property Damage:**

\$3,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

**Additional Insured.** The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

3. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and County's acceptance of all services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and ODE may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If ODE approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
4. **Notice of Cancellation or Change.** The contractor or its insurer must provide 30 days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).
5. **Certificate(s) of Insurance.** County shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: (i) all entities and individuals who are endorsed on the policy as Additional Insured and (ii) for insurance on a "claims

made” basis, the extended reporting period applicable to “tail” or continuous “claims made” coverage.

## EXHIBIT D

### Required Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to County, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODE, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all



contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the County certifies, to the best of the County's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. The County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  - e. No part of any federal funds paid to County under this Agreement shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f. No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. **HIPAA Compliance.** If the Activities and or Services provided under this Agreement are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA) and County has declare itself a “covered entity” under HIPAA, County agrees to conduct the Activities and or Services in compliance with HIPAA. Without limiting the generality of the foregoing, if the Services are covered by HIPAA, County shall comply and require all Providers to comply with the following:

- a. **Privacy and Security of Individually Identifiable Health Information.** On or after April 14, 2003, County, its agents, employees and Providers shall protect individually identifiable health information obtained or maintained about Agency’s clients from unauthorized use or disclosure, consistent with the requirements of HIPAA. The County shall ensure that any electronic communication from the County to an employee of the Agency which contains individually identifiable health information shall meet HIPAA security requirements. This Agreement may be amended to include additional terms and conditions related to the privacy and security of individually identifiable health information.
- b. **Data Transactions Systems.** Any electronic exchange of information on or after October 16, 2002, or on or after October 16, 2003, if County has received an extension from the United States Department of Health and Human Services, between County and Agency to carry out financial or administrative activities related to individually identifiable health care services will be in compliance with HIPAA standards for electronic transactions published in 65 Fed. Reg. 50312 (August 17, 2000). This Agreement may be amended to include additional terms and conditions related to data transactions.

- c. **Consultation.** If County reasonably believes that the County's or the Agency's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, County shall promptly consult Agency's HIPAA Privacy Officer.
7. **Resource Conservation and Recovery.** County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
8. **Audits.**
- a. County shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
  - b. Sub-recipients shall also comply with applicable Code of Federal Regulations (CFR) and OMB Circulars governing expenditure of federal funds including, but not limited, to OMB A-133 Audits of States, Local Governments and Non-Profit Organizations.
9. **Debarment and Suspension.** County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
10. **Drug-Free Workplace.** County shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) County certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in County's workplace or while providing services to ODE clients. County's notice shall specify the actions that will be taken by County against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, County's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i)

above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify ODE within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither County, or any of County's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the County or County's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the County or County's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to ODE clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; (x) Violation of any provision of this subsection may result in termination of this Agreement.

11. **Pro-Children Act.** County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. section 6081 et. seq.).
12. **Medicaid Services.** County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.

- e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid Agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).

**13. Agency-based Voter Registration.** County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.

**14. Disclosure.**

- a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.
- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. County shall make the disclosures required by this Section 14. To ODE. ODE reserves the right to take such action required by law, or where ODE has

discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

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

- a.** The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
  - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
  - (2) Any rights of copyright to which a grantee, subgrantee or a county purchases ownership with grant support.
- b.** The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
- c.** The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.

## EXHIBIT E

### Family Support Services Funding Requirements

1. **Family Support Services Purpose:** County shall utilize Family Support Funds to provide Healthy Families Oregon Services, as described in this Agreement, to eligible families in the Coverage Area in accordance with and subject to the requirements of this Exhibit E.
  
2. **Services:** Family Support Funds must be used to provide community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a safe, stable and supportive family environment, to strengthen parental relationships and promote healthy marriages, and otherwise to enhance child development. *US Department of Health and Human Services, Administration for Children and Families.*
  - a. Family Support Funded Services must (1) be family-focused and targeted to the family and not only the child or other individual family member(s); (2) be focused on at-risk families so that the services will have an impact on the population that would otherwise require services from DHS; and (3) focus on child welfare (not educational needs or other services which are the responsibility of other agencies). Family Support Services (Title IV-(B)(2)) funds allocated may not be used for family preservation or family reunification services as these are services provided by DHS.
  - b. Family Support Services funds are federal Title IV-B(2). Use and expenditure of these funds must meet all federal requirements.
  
3. **Title IV-B2 Family Support Services Funds:** When utilizing federal Title IV-B2 Family Support Services funds, County shall comply and require all Providers to comply with the additional federal requirements applicable to Title IV-B2 Family Support Services funds in 42 USC 629 et seq., including but not limited to: maintaining and providing to ELD such documentation as ELD shall require to comply with federal reporting requirements, 45 CFR Part 92, and the limitations on the use of Title IV-B2 funds in 42 USC 629d.
  
4. **Title IV-B2 Family Support Services Match Requirement:** Federal Title IV-B2 Family Support Services Funds require 25% match as described in Exhibit A, Part 1, Section 8(c). Other Federal Funds can't be utilized as match funds.
  
5. **Title IV-B2 Family Support Services Administrative Overhead:** No more than 10% of the Federal Title IV-B2 Family Support Services Funds provided to County under this Agreement may be expended on administrative overhead.

## Attachment 1

### ACTIVITY CODES

#### **A1. Medicaid/OHP Outreach Activities and Facilitating Medicaid /OHP Eligibility**

This code should be used when performing activities that inform eligible or potentially eligible individuals about Medicaid/OHP/Oregon Healthy Kids. This code should also be used when describing the range of services covered under Medicaid/OHP/Oregon Healthy Kids, how to access and obtain them, and the benefits of Medicaid/OHP preventative services. Use this code when assisting children and their families in applying for and becoming eligible for Medicaid/OHP. Activities for obtaining and sharing information for Medicaid/OHP outreach and facilitating Medicaid/OHP eligibility can be written or verbal and may occur during meetings, home visits or over the phone. This includes related paperwork, clerical activities, and staff travel required to perform these activities. Please note it is not necessary that the child/family actually receive Medicaid/OHP in order for this code to be used.

#### **Examples:**

- Informing Medicaid eligible and potential Medicaid eligible children and families about the benefits and availability of services provided by Medicaid (including preventative treatment and screening) including services provided through Enter Periodic Screening Diagnosis and Treatment (EPSDT) program.
- Developing and/or compiling materials to inform individuals about the Medicaid program (including EPSDT) and how and where to obtain those benefits. Note: this activity should not be used when Medicaid-related materials are already available to the children and families served in your target population (such as through the Medicaid agency). As appropriate, obtain prior approval from Medicaid when creating/developing outreach materials.
- Distributing literature about the benefits, eligibility requirements, and availability of the Medicaid program, including EPSDT.
- Assisting the Medicaid agency to fulfill the outreach objectives of the Medicaid program by informing individuals, children and their families about health resources available through the Medicaid program.
- Providing information about Medicaid EPSDT screening (e.g., dental, vision) available that will help identify medical conditions that can be corrected or improved by services offered through the Medicaid program.
- Contacting pregnant and parenting women and teens about the availability of Medicaid-covered prenatal and well-baby care programs, immunizations, birth control options and services.



- Providing information regarding Medicaid managed care programs and health plans such as Oregon Healthy Kids to individuals and families, including how to access the system.
- Encouraging families to access medical/dental/mental health services provided by the Medicaid program.
- Verifying an individual's current Medicaid eligibility status for purposes of the Medicaid eligibility process. (This may be accomplished by performing an eligibility check on-line, by reviewing the medical card, or contacting a local DHS/OHA facility to verify status of eligibility.)
- Reminding or assisting families to reapply for OHP to keep it current.
- Explaining Medicaid eligibility rules and the Medicaid eligibility process to prospective applicants.
- Assisting individuals or families complete a Medicaid eligibility application.
- Gathering information related to the application and eligibility determination process for an individual, including resource information and third party liability (TPL) information, as a prelude to submitting a formal Medicaid application.
- Providing necessary forms and/or packaging forms in preparation for Medicaid eligibility determination.
- Referring an individual or family to a local assistance office to make application for Medicaid benefits.
- Assisting an individual or family in collecting/gathering required information and documents for the Medicaid application.
- Identifying enrolled providers to provide Medicaid covered services, such as: immunizations, well child exams, dental services, mental health services.
- Participating as a Medicaid eligibility outreach outstation. NOTE: excludes determining eligibility.
- Preparing, presenting and disseminating child health related materials identifying Medicaid-covered services and how to access such services including preventative health care and substance abuse prevention programs, related staff travel and paperwork.
- Informing parents/families on how to appropriately access/use Medicaid-covered medical care/services.

## **A2. Outreach and Application Assistance for Non-Medicaid/OHP Programs:**

Activities that assist the child/family in gaining access to non-Medicaid/OHP services and effectively utilize social services and community wellness programs. (Included are housing, commodities, food banks, Women's Infant and Children Program ("WIC"), foster care, financial assistance, exercise and weight loss programs, energy assistance, child care, after school programs, friendly visitor and vocational services). Providers that are not enrolled with Medicaid or part of Medicaid Managed care of network providers and activities that assist the child/family in applying for these services, including form preparation, related staff travel, clerical, and paperwork.

### **Examples:**

- Informing families about general health education programs or campaigns and how to access them, conducting, scheduling or promoting these programs.
- Scheduling and promoting activities which educate individuals about the benefits of healthy lifestyles, home safety and accident prevention.
- Non-Medicaid/OHP outreach directed toward encouraging persons to access social, educational, legal, or other services not covered by Medicaid/OHP.
- Explaining eligibility rules and the eligibility process to prospective applicants for NON-OHP programs, providing the necessary forms and packaging all forms in preparation for such NON-OHP services.
- Informing individuals and families about NON-OHP programs, such as housing, food banks, foster care, financial assistance for needy families, TANF, food stamps, Women's Infant and Children (WIC) program, childcare, legal aid and other NON-OHP social or educational programs, and referring them to the appropriate agency to make application for such services.
- Providing outreach, developing and verifying initial and continuing eligibility for the Free and Reduced Lunch Program.

## **B1. Referral, Coordination, Monitoring and Training of Medicaid/OHP Covered Services**

Staff should use this code when making referrals for coordinating, and/or monitoring the delivery of Medicaid-covered services. This code may also be used when coordinating or participating in training events and seminars for outreach staff regarding the benefits of the Medicaid/OHP program, how to assist families to access Medicaid-covered services and how to more effectively refer participants for services. Activities that are an integral part of or an extension of a direct medical service are not claimable as an administrative activity and must be reported as E. NOTE: Targeted case management is also not claimable as an administrative activity and must be reported as E. Claimable activities reported include related staff travel, clerical, and paperwork.

\*\*\*If medically licensed staff provide these activities they are considered integral to Medical services they provide whether they are actively billing Medicaid for direct medical services or not, must report under E for Direct Healthcare Services.

**Examples:**

- Monitoring, coordination, and training of Medicaid/OHP services: for vulnerable children and families, including agency staffing to coordinate Medicaid/OHP services for child health and development (does not include Individualized Family Services Goal Plan meetings), arranging for Medicaid-covered services, coordinating child specific Medicaid-covered services in coordination with services identified (i.e. psychological counseling, health, substance abuse counseling and consultation), related staff travel and paperwork.
- Referral and Coordination: Gathering information in advance of a referral for a Medicaid-covered service utilizing questionnaires (i.e. New Baby Questionnaire or Family Update). Making referrals for and coordinating Medicaid covered screenings, examinations, assessments and evaluations for health, vision, dental, developmental, mental health, substance abuse, and other Medicaid-covered medical services. Contacts with parents regarding their child's Medicaid covered healthcare needs. Gathering background information and supportive data such as social history and medical history. Helping families meet goals related to Medicaid covered services and coordinating medical care with partnering agencies also serving the family such as Early Intervention and/or Community Healthy Nurses, and related staff travel and paperwork.
- Immunization: Scheduling immunizations, coordination of immunizations for children, related staff travel and paperwork.
- Maternal Care Services: Referring for Medicaid-covered prenatal, postpartum and newborn care, pre-pregnancy risk prevention, family planning and related staff travel and paperwork.
- Developmental Delay: Gathering information in advance of a referral for a Medicaid-covered service utilizing Ages and Stages Questionnaire (ASQ) and ASQ Social Emotional Questionnaire for early identification of age appropriate child development and/or delays to assure health and developmental problems are found, diagnosed and treated. Coordinating or referring for early Medicaid-covered medical consultation and evaluations, related staff travel and paperwork. Participating in or coordinating training which improves the delivery of Medicaid/OHP services, enhances early identification, intervention, screening and referral of children with special health needs.

**B2. Case Planning, Monitoring, Coordination, Referral and Training of Non-Medicaid/OHP Covered Services**

- Assessing and monitoring of the home learning environment using standardized forms, creating and disseminating information on positive and interactive learning environments, providing or arranging for reading material for the child, providing or arranging for age appropriate toys.
- Classroom instruction or presentations, preparation, related paperwork and travel, attendance at conferences, providing educational or career guidance or consultation. Includes related staff travel, clerical, and paperwork.
- Case management of social services and community wellness programs (including housing, commodities, food banks, WIC, foster care, financial assistance, exercise and weight loss programs, energy assistance, child care, after school programs, friendly visitor and vocational services). Arranging transportation for these services coordinating or participating in training events and seminars for these services. Includes related staff travel, clerical, and paperwork.
- Making direct referrals to social services such as housing, energy assistance, educational and/or special education, childcare, education and Early Intervention, vocational and transportation to these services, etc., monitoring and follow-up. Includes related staff travel, clerical and paperwork.
- Participating in or coordinating training which improves the delivery of non-Medicaid/OHP services.

**Examples:**

- Helping families meet non-Medicaid covered related goals.
- General education and referrals about topics like nutrition, normal breastfeeding, exercise, wellness, attachment, infant development.
- Sharing toys, making toys.
- Literacy.
- Parent child interactions.

**C1. Medicaid/OHP Transportation and Translation:**

Assisting an individual to obtain transportation to services covered by OHP, arranging for or providing translation services to facilitate access to OHP services. This does not include the provision of the actual transportation services, but rather the administrative activities involved in arranging or scheduling transportation to a Medicaid covered service. Translation services must be provided by an employee whose role is performing translation functions to facilitate access to Medicaid-covered services. Include related paperwork, clerical activities or staff travel required to perform these activities.

**Examples:**

- Arranging for or providing translation services (oral and signing) that assist the individual to access and understand necessary care or treatment covered by Medicaid.

- Developing translation materials that assist individuals to access and understand necessary care or treatment covered by Medicaid.
- Scheduling or arranging transportation to Medicaid/OHP covered services.
- Related staff travel and paperwork.

**C2. Non-Medicaid/OHP Transportation and Translation means:**

Assisting an individual to obtain transportation to services not covered by Medicaid/OHP, or arranging for or providing translation services related to social, vocational, or educational programs. Include related paperwork, clerical activities or staff travel time required to perform these activities.

**Special Note:** Use this code when accompanying an individual to non-Medicaid/OHP services.

**D1. Program Planning, Policy Development, and Interagency Coordination Related to Medicaid/OHP Services**

Performing activities associated with the development of strategies to improve the coordination and delivery of medical/dental/mental health services, and when performing collaborative activities with other agencies and/or providers. Planning and developing procedures to track requests for services; the actual tracking of requests for Medicaid services would be coded under B1 Referral, Coordination and Monitoring of Medical Services. Working internally and with other agencies to improve services, expand health and medical services and their utilization to specific target populations, gathering information about their functions, to improve early identification of health and developmental problems, related staff travel, clerical and paperwork.

**Examples:**

- Identifying gaps or duplication of medical/dental/mental services and developing strategies to improve the delivery and coordination of these services.
- Developing strategies to assess or increase the capacity of medical/dental/mental health programs.
- Monitoring medical/dental/mental health delivery systems.
- Developing procedures for tracking families; requests for assistance with medical/dental/mental services and providers, including Medicaid (this does not include the actual tracking of request for Medicaid services).
- Evaluating the need for medical/dental/mental services in relation to specific populations or geographic areas.
- Analyzing Medicaid data related to a specific program, population, or geographic area.
- Working with other agencies and/or providers that provide medical/dental/mental services to improve the coordination and delivery of services, to expand access to specific populations of Medicaid eligibles and to increase provider participation and improve provider relations.
- Working with other agencies and/or providers to improve collaboration around the early identification of medical/dental/mental problems.

- Developing strategies to assess or increase the cost effectiveness of medical/dental/mental health programs.
- Defining the relationship of each agency's Medicaid services to one another.
- Working with Medicaid resources, such as the Medicaid agency and Medicaid managed care plans, to make good faith efforts to locate and develop EPSDT health services referral relationships.
- Developing advisory or work groups of health professionals to provide consultation and advice regarding the delivery of health care services.
- Working with the Medicaid agency to identify, recruit and promote the enrollment of potential Medicaid providers.
- Developing medical referral sources such as directories of Medicaid providers and managed care plans who will provide services to targeted population groups, e.g., EPSDT children.
- Coordinating with interagency committees to identify, promote and develop EPSDT services.
- System coordination, community meetings to improve services, expand access to OHP, improve system of care.
- Developing a family planning, education, counseling and service program compatible with community norms, locating or developing family planning information and materials and methods of distribution, developing a family planning service referral network.
- Notifying medical providers of Healthy Start/Healthy Families Oregon services and coordination opportunities.
- Recruitment of enrolled providers to provide Medicaid covered services, such as: immunizations, well child exams, dental services, and mental health services.
- System coordination to improve delivery of immunizations.
- Related supervision, travel, case conferences, team meetings and paperwork.

## **D2. Coordination Related to Non-Medicaid/OHP Services**

Working internally and with other agencies to improve social services, identify gaps in services, expand and improve capacity to engage in non-Medicaid/OHP activities, expand access and linkage to non-Medicaid/OHP services, their utilization by specific target populations; related staff travel, clerical, and paperwork.

## **E. Direct Health Care Services**

Providing medical care, treatment, and/or counseling to an individual. This code also includes administrative activities that are an integral part of or extension of a medical service (e.g., patient follow-up, patient assessment, patient counseling, patient education, parent consultations, billing activities). This code also includes related paperwork, clerical activities, or staff travel required to perform these activities.

### **Examples:**

- Providing health/mental health services.
- Medical/health assessment and evaluation.

- Conducting medical/health assessments/evaluations and diagnostic testing and preparing related reports.
- Providing personal aide services.
- Providing speech, occupational, physical and other therapies.
- Administering first aid or prescribed injection or medication.
- Providing direct clinical/treatment services.
- Performing developmental assessments.
- Providing counseling services to treat health, mental health, or substance abuse conditions.
- Developing a treatment plan (medical plan of care) for a student if provided as a medical service.
- Performing routine or mandated child health screens including but not limited to vision, hearing, dental, scoliosis, and EPSDT screens.
- Providing immunizations.

#### **F. Other Services**

General administrative functions such as: payroll, maintaining inventories, developing budgets, executive direction, lunches, paid leave, educational or professional development conferences, staff meetings, and personnel issues.

#### **Examples:**

- Paid lunches, breaks, or other time not at work.
- Paid time off (vacation, sick).
- Most trainings, conferences and meetings (not related to Medicaid covered services).
- Personnel issues.
- Emails and phone messages, general office work, filing.
- Establishing goals and objectives of health-related programs as part of an annual or multi-year plan.
- Reviewing agency procedures and rules.
- Attending or facilitating staff or board meetings.
- Performing administrative or clerical activities related to general building or agency functions or operations.
- Providing general supervision of staff, including assistants or volunteers, and evaluation of employee performance.



Jeff Jorgensen  
Manager

**FACILITIES MANAGEMENT**

**CENTRAL UTILITY PLANT**

1710 Red Soils Court, #200 \ Oregon City, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with Brockamp & Jaeger, Inc. for a  
Membrane Roofing System and HVAC Replacement Project  
at the Clackamas County Jail Facility**

<b>Purpose/Outcomes</b>	Approval of contract to complete construction this calendar year
<b>Fiscal Impact</b>	\$1,399,379.00
<b>Funding Source</b>	Budget Line: 420-0221-00-482300-76169 - \$1,050,000.00 Fiscal year 2014-2015 and 2015-2016 Budget Line: 420-0221-00-482300-76170 - \$250,000.00 Fiscal year 2014-2015 and 2015-2016
<b>Duration</b>	Contract signing through October 31, 2016
<b>Strategic Plan Alignment</b>	1. Bring roof to current County standards and enhance energy conservation and efficiency.
<b>Previous Action</b>	Contract approval and termination with Hydro Temp Mechanical
<b>Contact Person</b>	Steven Bloemer Construction Coordinator (503) 805-9870

**BACKGROUND:**

The Clackamas County Jail serves as the only correctional facility for Clackamas County, with the facility currently processing approximately 16,000 offenders annually. The original jail structure was built in 1959 with the capacity for about 85 prisoners. Subsequent additions to the original building occurred in 1982, 1990 and more recently 2005 and 2012 with the capacity increasing to nearly 440 inmate spaces.

The original roof excluding the 2005 and 2012 additions consists of approximately 65,000 square feet of concrete substrate with rolled asphalt/fiberglass composition roofing. While the concrete substrate is still in good condition, the age and wear on the asphalt roofing is beginning to produce minor leaks that have required repeated maintenance measures to control. It has been determined a new membrane roof will meet the needs and budget for this project.

In addition to the roofing issues, the current assorted HVAC units installed on the roof have reached and exceed their operable life spans. In 2006 half of the jail's HVAC roof units were replaced, leaving 20 units that are nearing 24 years in operation. This contract will replace the aging units and properly integrate the new units into the new roof system.

This contract has been reviewed and approved by County Counsel

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the contract with Brockamp & Jaeger, Inc. for a new Membrane Roofing System and HVAC Replacement Project at the Clackamas County Jail Facility.

Sincerely,

Marc Gonzales  
Finance Director

Placed on the board agenda of 3-24-16 by the Purchasing Division.





LANE MILLER  
MANAGER

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

March 24, 2016

## MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of **March 24, 2016**, this contract with Brockamp & Jaeger Inc. for the **Membrane Roofing System and HVAC Replacement at the Clackamas County Jail Facility Project**. This project was requested by Dan Robertson, Project Manager and was publicly advertised in accordance with ORS 279. Twenty-two proposal packets were requested and sent out with two proposal responses received: Brockamp & Jaeger, and Arjae Sheet Metal. A selection panel reviewed and evaluated the Request for Proposals based on the selection criteria outlined in the RFP documents. Brockamp & Jaeger Inc. was the highest ranking firm and was selected to enter into contract. The contract amount is not to exceed \$1,399,379.00. The contract term is from contract execution through December 31, 2016. This contract has been reviewed and approved by County Counsel. Funds for this project are budgeted under account line 420-0221-00-482300-76169 for fiscal years 2015/2016 and 2016/2017.

Respectfully Submitted,

Kathryn M. Holder  
Purchasing Staff

**CONTRACT WITH BROCKAMP & JAEGER INC. FOR THE MEMBRANE ROOFING  
SYSTEM AND HVAC REPLACEMENT AT THE CLACKAMAS COUNTY JAIL FACILITY  
PROJECT**

THIS CONTRACT made and entered into in triplicate by and between Clackamas County, a political subdivision of the State of Oregon hereinafter called "COUNTY" and **BROCKAMP & JAEGER INC.**, hereinafter called "CONTRACTOR", which parties do hereby agree as follows:

**Section 1. Incorporation of Full Terms and Conditions:** This Contract is the complete and exclusive statement of the agreement between the parties relevant to the purpose described herein, and supersedes all prior agreements or proposals, oral or written, and all other communications between the parties relating to the subject matter of this contract. This Contract, or any modification of this Contract, will not be binding on either party except as written and signed by authorized agents of both parties.

**Section 2. Contract Documents:** The complete Contract consists of the following documents: the Request for Proposals; the Instructions to Proposers; the Scope of Work; the Proposal Contents, Response Forms, and First Tier Subcontractor Disclosure Form; the Negotiated Scope of Work and Fee Schedule; the Evaluation Procedure; the Performance Bond and the Payment Bond; the Insurance Certificates; the Prevailing Wage Rates; the Plans, Drawings and Exhibits; this agreement including Sections 1-33, and any and all addenda prepared by or at the direction of and adopted by the COUNTY and entitled **MEMBRANE ROOFING SYSTEM AND HVAC REPLACEMENT AT THE CLACKAMAS COUNTY JAIL FACILITY PROJECT**, and further identified by the signature of the parties to this Contract and all modifications thereof incorporated in the documents before their execution.

All of the above documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice-versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete Contract are sometimes hereinafter referred to as the Contract Documents.

Should any dispute arise respecting interpretation of the specifications during the performance of this Contract, such dispute shall be decided by the COUNTY and the decision shall be final and conclusive.

**Section 3. Work to be Done:** The CONTRACTOR agrees to furnish all tools, equipment, apparatus, facilities, labor and materials necessary to perform and complete in good and workmanlike manner the project entitled **MEMBRANE ROOFING SYSTEM AND HVAC REPLACEMENT AT THE CLACKAMAS COUNTY JAIL FACILITY PROJECT** for the contract price of **\$1,399,379.00** in strict conformity with the Contract Documents. It is understood and agreed that said tools, equipment, apparatus, facilities, labor and material shall be furnished and the work performed and completed in accordance with specifications, and subject to the inspection and approval of the COUNTY.

**Section 4. Completion Time and Duration of Contract.** Time is of the essence in this Contract and the CONTRACTOR agrees that **all work shall be completed by December 31, 2016**. The project is to commence within ten (10) calendar days after the date of Notice To Proceed by the COUNTY. If the Notice To Proceed is delayed, the time schedule will be

adjusted accordingly. If said CONTRACTOR shall be delayed in said work by acts of God, or of the public enemy, fire, flood, epidemics, quarantine restrictions, strikes, labor disputes, freight embargoes, or neglect of said COUNTY, or its employees, or those under it by contract or otherwise, or by changes ordered in the work, or delay authorized by the COUNTY, then the time of completion shall be extended as outlined in Section 20 herein.

**Section 5. Contract Payments:** The COUNTY promises and agrees, upon the performance and fulfillment of the covenants aforesaid, to pay the CONTRACTOR for said work in the manner provided by law and in the specifications the prices fixed in the CONTRACTOR'S Bid Proposal for said work as set forth herein under the Schedule of Bid Prices. Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent COUNTY contract and/or purchase order numbers. All charges shall be billed monthly and will be paid net 30 days from receipt of invoice.

**Section 6. Permits-Licenses-Safety:** The CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the work as required by the COUNTY. In the performance of the work to be done under this Contract, the CONTRACTOR shall use every reasonable and practicable means to avoid damage to property and injury to persons. The CONTRACTOR shall use no means or methods which will unnecessarily endanger either persons or property. The responsibility of the CONTRACTOR stated herein shall cease upon the work being accepted as complete by the COUNTY.

**Section 7. Materials-Improvements:** Title to materials, improvements and other property required of the CONTRACTOR by this Contract shall vest in and become the property of the COUNTY at the time such are tendered by the CONTRACTOR and accepted by the COUNTY. Only materials, improvements and property free and clear of all liens (including but not limited to workman's liens), claims and encumbrances shall be so furnished by the CONTRACTOR.

**Section 8. Responsibility for Work:** Prior to completion and final acceptance of work, the CONTRACTOR shall be responsible for any injury or damage to the work or to any part thereof by action of the elements, or from any cause whatsoever, and the CONTRACTOR shall make good all injuries or damages to any portion of the work.

**Section 9. Final Inspection:** Except as otherwise provided in the Special Provisions of this Contract, the COUNTY shall make final inspection of work done by the CONTRACTOR within 10 days after written notification to the COUNTY by the CONTRACTOR that the work is completed. If the work is not acceptable to the COUNTY, the COUNTY shall so advise the CONTRACTOR in writing as to the particular defects to be remedied before final acceptance by the COUNTY can be made.

**Section 10. Materials from County Property:** The CONTRACTOR shall not take, sell, use, remove or otherwise dispose of any sand, gravel, rock, earth, firewood, and/or other material obtained or produced from the project site, within the limits of rights-of-way, gravel pits, rock quarries or other property owned by or held by the COUNTY unless specially authorized by this Contract or by written consent of the COUNTY.

**Section 11. Prosecution of the Work:** Contractor shall not commence work under this Contract until the CONTRACTOR and every subcontractor has a public works bond filed with the Construction Contractors Board in accordance with ORS 279C.830, all other bonding and insurance requirements have been met, and a Notice to Proceed has been issued.

**Section 12. Emergency Conditions-Suspension of Activities:** The COUNTY shall have the authority to suspend, wholly or in part, the activities of the CONTRACTOR and contractors and subcontractors of the CONTRACTOR under this Contract for such period or periods of time as the COUNTY may deem necessary when due to a fire or other hazard or emergency caused by any reason whatsoever.

## **OTHER PAYMENTS**

### **Section 13. Payments, Contributions and Liens:**

- (1) Under the provisions of ORS 279C.505 the CONTRACTOR shall:
  - (a) Make payment promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract.
  - (b) Pay all contributions or amounts due the State Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract.
  - (c) Not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
  - (d) Pay to the Revenue Department all sums withheld from the employees pursuant to ORS 316.197.
- (2) If the Contract is for a public improvement, the CONTRACTOR shall demonstrate that an employee drug testing program is in place.
- (3) Under the provisions of ORS 279C.515, 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 the 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 the funds due or to become due the CONTRACTOR by reason of the Contract. If a CONTRACTOR or a first-tier subcontractor fails, neglects or refuses to make prompt payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the public contracting agency or a contractor, the CONTRACTOR or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (3) and (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the CONTRACTOR or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after

the date when payment was received from the public contracting agency or from the CONTRACTOR, provided that the rate of interest shall not exceed 30 percent. The amount of interest may not be waived.

(4) If the CONTRACTOR or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

**Section 14. Medical Care:** The CONTRACTOR shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, or hospital care or other needed care and attention incident to sickness or injury. The CONTRACTOR agrees to pay for such services and all moneys and sums which the CONTRACTOR collected or deducted from the wages of his or her employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such service.

## **LABOR LAWS - WAGE RATES**

**Section 15. Labor Laws and Prevailing Wages:** If the Contract is for a public work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 3141 et seq.), no bid will be received or considered by the public contracting agency unless the bid contains a statement by the bidder as a part of its bid that the provisions of ORS 279C.800 through ORS 279C.870 or 40 U.S.C. 3141 et seq. are to be complied with. Insofar as applicable to the work to be done under this Contract, the CONTRACTOR shall pay prevailing wages and comply with all State and Federal laws in the employment and payment of labor. Particular reference is made to the requirements of ORS chapter 279C, which relates to wage rates to be paid on public works. Under such laws, 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, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and one-half pay: (A) for all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work week is five consecutive days, Monday through Friday; or (B) for all overtime in excess of ten (10) hours a day or forty (40) hours in any one week when the work week is four consecutive days, Monday through Friday; and (C) for all work performed on Saturday and on any legal holiday specified in ORS 279C.540. Employers must give written notice to employees of the days and hours of required work.

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.

(1) Each worker in each trade or occupation employed in the performance of the Contract either by the CONTRACTOR, subcontractor or other person doing or contracting for the whole or any part of the work on this Contract shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

(2) In the case of contracts for personal services as defined in ORS 279C.100, employees shall be paid at least time and a half for all overtime worked in excess of forty (40) hours in any

one week, except for individuals who are excluded under ORS 653.020 or under 29 USC Section 201 to 219 from receiving overtime.

**INDEMNITY – INSURANCE – BONDS**

**Section 16. Indemnity:** The CONTRACTOR agrees to indemnify, save harmless and defend the COUNTY, its officers, commissioners, agents and employees from and against all claims and action, and all expenses incidental to the investigation and defense thereof (including attorney’s fees), 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 or agents.

**Section 17. Insurance:**

**A. COMMERCIAL GENERAL LIABILITY**

Required by COUNTY                       Not required by COUNTY

The CONTRACTOR agrees to furnish the COUNTY evidence of commercial general liability insurance in the amount of not less than \$4,000,000 combined single limit per occurrence/ \$5,000,000 general annual aggregate for personal injury and property damage for the protection of the COUNTY, its officers, commissioners, agents and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The COUNTY, at its option, may require a complete copy of the above policy.

**B. AUTOMOBILE LIABILITY**

Required by COUNTY                       Not required by COUNTY

The CONTRACTOR agrees to furnish the COUNTY evidence of business automobile liability insurance in the amount of not less than \$1,000,000 combined single limit for bodily injury and property damage for the protection of the COUNTY, its officers, commissioners, agents and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The COUNTY, at its option, may require a complete copy of the above policy.

**C. PROFESSIONAL LIABILITY**

Required by COUNTY                       Not required by COUNTY

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

**D. POLLUTION LIABILITY INSURANCE**

Required by COUNTY                       Not required by COUNTY

The CONTRACTOR shall obtain, at the CONTRACTOR'S expense and keep in effect during the term of the Contract, CONTRACTOR'S Pollution Liability insurance covering the CONTRACTOR'S liability for a third party bodily injury and property damage arising from pollution conditions caused by the CONTRACTOR while performing their operations under the Contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to the insurer must be accepted by the COUNTY. The insurance coverage shall also respond to cleanup cost. This coverage may be written in addition to or in combination with the commercial general liability insurance or professional liability insurance. The policy's limits shall not be less than \$1,000,000 each loss / \$1,000,000 aggregate. The policy shall be endorsed to state that the general aggregate limit of liability shall apply separately to this Contract. Any self-insured retention / deductible amount shall be submitted to the COUNTY for review and approval.

**E.** The certificate of insurance, other than the Worker's Compensation insurance, shall include the COUNTY as an expressly scheduled additional insured using form CG 20-10, CG 20-37, CG 32 61 or their equivalent. A blanket endorsement or automatic endorsement is not sufficient to meet this requirement. Proof of insurance must include a copy of the endorsement showing the COUNTY as a scheduled insured. Such insurance shall provide sixty (60) days written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.

**F.** If the CONTRACTOR has the assistance of other persons in the performance of this Contract, and the CONTRACTOR is a subject employer, the CONTRACTOR agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The CONTRACTOR shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

**G.** If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the CONTRACTOR'S insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided the coverage's retroactive date is on or before the effective date of this Contract.

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the CONTRACTOR to the COUNTY.

This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.

**H.** The CONTRACTOR shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the CONTRACTOR under this Contract, unless this requirement is expressly modified or waived by the COUNTY in writing.

**Section 18. Bonds:** The CONTRACTOR agrees to furnish to the COUNTY bonds covering the performance of the Contract and the payment of obligations each in the amount equal to the full amount of the Contract as it may be amended. Upon the request of any person or entity appearing to be a potential beneficiary of the bonds covering payment of obligations arising in the Contract, the CONTRACTOR shall promptly furnish a copy of the bonds or shall permit a copy to be made. The CONTRACTOR shall secure, include costs thereof in the bid, and pay for a performance bond and payments bond in compliance of ORS 279C.380 and other applicable revised statutes issued by a bonding company licensed to transact business in the State of Oregon in accordance with the bid and performance bonds forms provided or others acceptable to the COUNTY.

The CONTRACTOR also agrees that the performance bond to be furnished as specified shall be such as to stay in force for a period of three hundred sixty-five days (365), after acceptance of the work by the COUNTY as a guarantee of repair or replacement of any item(s) of work found to be defective by reason of faulty workmanship or defective materials.

The CONTRACTOR shall have a public work bond filed with the Construction Contractors Board prior to starting work on the project, in accordance with ORS279C.830. Additionally the CONTRACTOR shall include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work, in accordance with ORS 279C.830.

**Section 19. Acceptance of Bond and Insurance:** The bond and insurance required by this Contract shall be furnished to the COUNTY within 10 days of the date of this Contract, and no operation shall be started prior to written acceptance of said bond and insurance by the COUNTY.

## **ADMINISTRATION OF CONTRACT**

**Section 20. Extension of Time:** An extension of time on this Contract may be made by the COUNTY only upon written request from the CONTRACTOR and with the written consent of the surety of the CONTRACTOR. Such extension will be granted only upon a showing by the CONTRACTOR that the failure to perform this Contract within the specified period was due to causes beyond the control of the CONTRACTOR and without fault or negligence of the CONTRACTOR. The written request must be received not later than 30 days prior to the expiration date of this Contract. Such request shall state the date to which the extension is desired and shall describe the conditions which have occurred to prevent the CONTRACTOR from completing this contract within the specified time.



**Section 21. Alterations in Details:** The COUNTY reserves the right to make, at any time during the progress of the work to be done, such changes or alterations as may be found to be necessary or desirable; provided however, such changes or alterations shall not change the character of the work to be done, nor increase the cost thereof unless the cost increase is approved in writing by both parties. Any changes or alterations so made shall not invalidate this Contract or release the surety of the CONTRACTOR on the performance bond and the CONTRACTOR agrees to do the work as changed or altered as if it had been a part of the original contract.

**Section 22. Adjustment of Contract:** Notwithstanding any other provisions of this contract, the COUNTY may, pursuant to Oregon law, make adjustments in the Contract when material effect upon the volume and value of work to be done under the Contract is caused by major catastrophes or disasters resulting from act of God, terrorism, war, riot, windstorms, floods, fire or other acts of nature, which are beyond the control of the CONTRACTOR and in no way connected with negligent acts or omissions of the CONTRACTOR or the representatives, employees or contractors of the CONTRACTOR. Such adjustments may be made to place the parties in their original status under the Contract, insofar as possible; provided however, that any loss or cost to third parties is in no way recoverable from the COUNTY through action or otherwise by third parties, and provided further, the CONTRACTOR make written application to the COUNTY within 30 days after the event.

**Section 23. Violations, Suspension and Cancellation:** If the CONTRACTOR violates any of the provisions of this Contract, the COUNTY, may, after giving written notice, suspend any further operations of the CONTRACTOR under this Contract, except such operations as may be necessary to remedy any violations. If the CONTRACTOR fails to remedy other violations of this Contract within 10 days after receipt of the suspension notice given under this section, the COUNTY may, by written notice, cancel this Contract and take appropriate action to recover all damages suffered by the COUNTY by reason of such violations, including application toward payment of such damages of any advance payments and any performance bonds.

**Section 24. Subletting of Contract:** It is understood and agreed that if all or any part of the work to be done under this Contract is subcontracted such subcontracting done by the CONTRACTOR or otherwise shall in no way relieve the CONTRACTOR of any responsibility under this Contract. The CONTRACTOR shall notify the COUNTY, in writing, of the names and addresses of all subcontractors, prior to subletting any part of the work to be done under this Contract.

**Section 25. Assignment of Contract:** The CONTRACTOR agrees not to assign, transfer, convey or otherwise dispose of this Contract, or the right, title, or interest therein, either in whole or in part, or the power of the CONTRACTOR to execute this Contract, to any other person, firm, or corporation, without the prior written consent of the COUNTY.

**Section 26. Notices:** Any written notice to the CONTRACTOR which may be required under this Contract to be served on the CONTRACTOR by the COUNTY may be served by personal delivery to the CONTRACTOR or the designated representative or representatives of the CONTRACTOR, or by mailing the notice to the address of the CONTRACTOR as such is given in the Contract, or by leaving the notice at said address. Should the CONTRACTOR be required to notify the COUNTY concerning the progress of the work to be done, or concerning any matter

or complaint which the CONTRACTOR may have to make regarding the Contract subject matter, or for any other reason, it is understood that such notification is to be made in writing, delivered to the designated representative of the COUNTY in person or mailed to the COUNTY.

**Section 27. Authorized Representative:** During any period of operations or activity on the project entitled **MEMBRANE ROOFING SYSTEM AND HVAC REPLACEMENT AT THE CLACKAMAS COUNTY JAIL FACILITY PROJECT**, and during any period of doing the work required by this Contract on location, the CONTRACTOR shall have a designated representative or representatives available to the COUNTY on the area or work location, or both where such activity is separated, which representative or representatives shall be authorized to receive in behalf of the CONTRACTOR any notice or instructions from the COUNTY and to take such action as may be required in regard to performance of the CONTRACTOR under this Contract. The COUNTY shall designate to the CONTRACTOR, the authorized representative/project manager”, or his or her designee as authorized field representative who shall be authorized to receive notices, inspect progress of work, and issue instructions in regard to performance under the terms of this Contract.

**Section 28. Inspection:** The COUNTY, through its authorized representative/project manager or his or her designee shall at all times be allowed access to all parts of the operations and work locations of the CONTRACTOR, and shall be furnished such information and assistance by the CONTRACTOR, or the designated representative or representatives of the CONTRACTOR, as may be required to make a complete and detailed inspection.

**Section 29. Removal of Equipment and Materials:** It is understood and agreed that the CONTRACTOR, upon completion of the requirements of this Contract, is to promptly remove from the work location, and other property owned or controlled by the COUNTY, all equipment, materials and other property the CONTRACTOR has placed or caused to be placed thereon that is not to become the property of the COUNTY. It is further understood and agreed that any such equipment, materials and other property that are not removed within 30 days after the day the project work is accepted by the COUNTY, or within such longer time as may be agreed upon in writing between the CONTRACTOR and the COUNTY, shall become the property of the COUNTY and may be used or otherwise disposed of by the COUNTY without obligation to the CONTRACTOR or to any party to whom the CONTRACTOR may seek to transfer title or whom have an interest, including a security interest, in such property. Nothing in this section shall be construed as relieving the CONTRACTOR from an obligation to clean up, and to burn, remove, or dispose of debris, waste materials, and such, in accord with other provisions of the Contract.

**Section 30. Liability of Public Officials:** In carrying out any of the provisions of this Contract, or in exercising any power or authority granted under this Contract, there will be no liability upon the Clackamas County Board of Commissioners, its members, officers, agents, employees, or its authorized representatives, either personally or as public officials and employees; it always being understood that in such matters they act as agents and representative of the COUNTY.

**Section 31. Laws, Regulations and Orders, and Tax Law Covenant:**

(1) The CONTRACTOR at all times shall observe and comply with all federal and state laws and lawful regulations issued there under and local bylaws, ordinances, regulations and codes

which in any manner affect the activities of the CONTRACTOR under this Contract, and further shall observe and comply with all orders or decrees as exist at present and those which may be enacted later by bodies or tribunals having any jurisdiction or authority over such activities of the CONTRACTOR.

(2) The 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. Any violation shall entitle the AGENCY to terminate this Contract, to pursue and recover any 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 the CONTRACTOR, in an amount equal to the AGENCY's setoff right, without penalty; and
- (c) Initiation of an action of proceeding for damages, specific performance, declaratory or injunctive relief. The AGENCY shall be entitled to recover any and all damages suffered as the result of the 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 the AGENCY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

(3) The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

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

**Section 32. Description of a CONTRACTOR:** The CONTRACTOR is engaged hereby as an independent CONTRACTOR and will be so deemed for purposes of the following:

(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. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Contract to the CONTRACTOR are 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).

(c) The CONTRACTOR certifies that at present, he or she, if an individual, is not a program, COUNTY, or federal employee.

**Section 33. Constitutional Debt Limitation:** 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.

The undersigned, by its signature, agrees to perform the scope of work as described in the contract documents and meet the performance standards set forth therein. By their signatures below, the parties to this contract agree to the terms, conditions, and content expressed herein.

Brockamp & Jaeger, Inc.  
15796 S Boardwalk  
Oregon City, OR 97045

CLACKAMAS COUNTY BOARD OF  
COUNTY COMMISSIONERS by:

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

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Name / Title Printed

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone / Fax Number

APPROVED AS TO FORM

\_\_\_\_\_  
CCB License Number

\_\_\_\_\_  
070946-18  
\*Oregon Business Registry Number

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

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

\_\_\_\_\_  
Date

\*Please do not provide assumed business names or trade names. Please provide only the correct legal name of the entity or individual entering into the Contract.



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Resolution for a Clackamas County Supplemental Budget  
(Less Than Ten Percent) for Fiscal Year 2015-2016

Purpose/Outcome	Supplemental Budget changes for Clackamas County FY 2015-2016
Dollar Amount and fiscal Impact	The effect is an increase in appropriations of \$1,760,853.
Funding Source	Includes Fund Balance, Charges for Services and Miscellaneous Revenue and Interfund Transfer.
Safety Impact	N/A
Duration	July 1, 2015-June 30, 2016
Previous Board Action/Review	Budget Adopted June 25, 2015, amended October 29, and December 10, 2015
Contact Person	Diane Padilla, 503-742-5425
Contract No.	N/A

**BACKGROUND:**

Each fiscal year it is necessary to allocate additional sources of revenue and appropriate additional expenditures to more accurately meet the changing requirements of the operating departments. The attached resolution reflects such changes requested by departments in keeping with a legally accurate budget. These changes are in compliance with O.R.S. 294.471 (3) which allows for governing body approval of supplemental budget changes of less than ten percent of qualifying expenditures in the fund(s) being adjusted.

The General Fund – Clerk is recognizing fund balance and budgeting for professional services.

The General Fund – Treasurer is recognizing additional revenue and budgeting for training and staff development.

The General Fund – Not Allocated to Organizational Unit is recognizing lower fund balance and adjusting contingency accordingly.

The General Fund – Not Allocated to Organization Unit is transferring from contingency to Capital Projects Reserve to help support Sheriff Department projects.

The Emergency Management Fund is recognizing fund balance and adjusting expenses and contingency accordingly.

The Dog Services Fund is recognizing additional revenue and budgeting to add a new part-time Human Services Coordinator position.

The Employers Contribution Fund is recognizing lower fund balance and reducing reserve.

The County Safety Net Legislation Local Projects Fund is recognizing fund balance and budgeting for program expenses.

The Health Centers Fund is recognizing additional fee for services revenue and budgeting to increase three current part-time positions to full-time for expanded services being provided.

The Clackamas County Debt Service Fund is recognizing fund balance and budgeting for special payments.

The Capital Projects Reserve Fund is recognizing an interfund transfer from the General Fund and budgeting for capital improvement projects for the Sheriff’s Department. This fund is also recognizing lower fund balance and adjusting contingency accordingly.

The Local Improvement District Construction Fund is recognizing a lower fund balance and reducing contingency.

The Emergency Communications Fund is recognizing fund balance and adjusting contingency accordingly.

The Risk Management Claims Fund is recognizing fund balance and budgeting for claim expenses.

The effect of this Resolution is an increase in appropriations of \$1,760,853 including revenues as detailed below:

Fund Balance	\$ 491,972.
Charge for Services	909,328.
Miscellaneous Revenue	16,616.
Interfund Transfer	<u>342,937.</u>
Total Recommended	<u>\$ 1,760,853.</u>

**RECOMMENDATION:**

Staff respectfully recommends adoption of the attached supplemental budget and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Diane Padilla  
Budget Manager

In the Matter of Providing Authorization  
Regarding Adoption of a Supplemental  
Budget for Items Less Than 10  
Percent of the Total Qualifying Expenditures  
and Making Appropriations for Fiscal  
Year 2015-16

Resolution No \_\_\_\_\_

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, a supplemental budget for the period of July 1, 2015 through June 30, 2016, inclusive, has been prepared, published and submitted to the taxpayers as provided by statute;

WHEREAS; the funds being adjusted are:

- . General Fund – Clerk
- . General Fund - Treasurer
- . General Fund – Not Allocated to Organizational Unit
- . Emergency Management Fund
- . Dog Services Fund
- . Employers Contribution Fund
- . County Safety Net Legislation Local Projects Fund
- . Health Centers Fund
- . Clackamas County Debt Service Fund
- . Capital Projects Reserve Fund
- . Local Improvement District Construction Fund
- . Emergency Communications Fund
- . Risk Management Claims Fund;

It further appearing that it is in the best interest of the County to approve this less than 10 percent appropriations for the period of July 1, 2015 through June 30, 2016.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.471, the supplemental budget be adopted and appropriations established as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

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





MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Resolution for Clackamas County for Budgeting of  
New Specific Purpose Revenue for Fiscal Year 2015-2016

Purpose/Outcome	Budget changes for Clackamas County FY 2015-2016
Dollar Amount and fiscal Impact	The effect is an increase in appropriations of \$2,376,186
Funding Source	Includes Federal and State Operating Grants, Local Gov't and Other Agencies and Charge for Services Revenue.
Safety Impact	N/A
Duration	July 1, 2015-June 30, 2016
Previous Board Action/Review	Budget Adopted June 25, 2015, amended October 29, and December 10, 2015
Contact Person	Diane Padilla, 503-742-5425
Contract No.	N/A

**BACKGROUND:**

Each fiscal year it is necessary to appropriate additional expenditures and allocate additional sources of revenue to more accurately meet the changing requirements of the operating departments of the County. The attached resolution reflects those changes that departments have requested which pursuant to O.R.S. 294.338, qualify as grants in trust for specific purposes in keeping with legally accurate budget.

The Social Services Fund is recognizing State revenue and budgeting it for program costs associated with the Developmental Disability Program.

The Children, Youth and Families Fund is recognizing State revenue and budgeting it for the Focused Child Network Program costs and better aligning other program costs.

The Health Centers Fund is recognizing funding from the Migrant Health Center Grant, Quality Improvement Grant and Medicaid and budgeting to add seven full-time positions to the Sunnyside Dental Clinic to expand clinic hours to better serve its clients. This fund is also increasing a part-time Policy Analyst position to full-time to expand coordination of the care teams.

The Juvenile Fund is recognizing additional charge for services revenue and budgeting for Sexual Assault Response Coordinator program costs.

The effect of this Board Order is an increase in appropriations of \$2,376,186 including new revenues as detailed below:

Federal Operating Grants	\$ 196,348.
State Operating Grants	2,093,028.
Local Government & Other Agencies	27,316.
Charge for Services	<u>59,494.</u>
Total Recommended	<u>\$ 2,376,186.</u>

**RECOMMENDATION:**

Staff respectfully recommends adoption of the attached supplemental budget and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Diane Padilla  
Budget Manager

In the Matter of Providing Authorization  
Regarding Adoption of a Supplemental  
Budget for Items Less Than 10  
Percent of the Total Qualifying Expenditures  
and Making Appropriations for Fiscal  
Year 2015-16

Resolution No \_\_\_\_\_

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, a supplemental budget for the period of July 1, 2015 through June 30, 2016, inclusive, has been prepared, published and submitted to the taxpayers as provided by statute;

WHEREAS; the funds being adjusted are:

- . General Fund – Clerk
- . General Fund - Treasurer
- . General Fund – Not Allocated to Organizational Unit
- . Emergency Management Fund
- . Dog Services Fund
- . Employers Contribution Fund
- . County Safety Net Legislation Local Projects Fund
- . Health Centers Fund
- . Clackamas County Debt Service Fund
- . Capital Projects Reserve Fund
- . Local Improvement District Construction Fund
- . Emergency Communications Fund
- . Risk Management Claims Fund;

It further appearing that it is in the best interest of the County to approve this less than 10 percent appropriations for the period of July 1, 2015 through June 30, 2016.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.471, the supplemental budget be adopted and appropriations established as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

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



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Resolution for Clackamas County for Budgeting of  
New Specific Purpose Revenue for Fiscal Year 2015-2016

Purpose/Outcome	Budget changes for Clackamas County FY 2015-2016
Dollar Amount and fiscal Impact	The effect is an increase in appropriations of \$2,376,186
Funding Source	Includes Federal and State Operating Grants, Local Gov't and Other Agencies and Charge for Services Revenue.
Safety Impact	N/A
Duration	July 1, 2015-June 30, 2016
Previous Board Action/Review	Budget Adopted June 25, 2015, amended October 29, and December 10, 2015
Contact Person	Diane Padilla, 503-742-5425
Contract No.	N/A

**BACKGROUND:**

Each fiscal year it is necessary to appropriate additional expenditures and allocate additional sources of revenue to more accurately meet the changing requirements of the operating departments of the County. The attached resolution reflects those changes that departments have requested which pursuant to O.R.S. 294.338, qualify as grants in trust for specific purposes in keeping with legally accurate budget.

The Social Services Fund is recognizing State revenue and budgeting it for program costs associated with the Developmental Disability Program.

The Children, Youth and Families Fund is recognizing State revenue and budgeting it for the Focused Child Network Program costs and better aligning other program costs.

The Health Centers Fund is recognizing funding from the Migrant Health Center Grant, Quality Improvement Grant and Medicaid and budgeting to add seven full-time positions to the Sunnyside Dental Clinic to expand clinic hours to better serve its clients. This fund is also increasing a part-time Policy Analyst position to full-time to expand coordination of the care teams.

The Juvenile Fund is recognizing additional charge for services revenue and budgeting for Sexual Assault Response Coordinator program costs.

The effect of this Board Order is an increase in appropriations of \$2,376,186 including new revenues as detailed below:

Federal Operating Grants	\$ 196,348.
State Operating Grants	2,093,028.
Local Government & Other Agencies	27,316.
Charge for Services	<u>59,494.</u>
Total Recommended	<u>\$ 2,376,186.</u>

**RECOMMENDATION:**

Staff respectfully recommends adoption of the attached supplemental budget and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Diane Padilla  
Budget Manager

In the Matter of Providing  
Authorization to Appropriate Grants  
For Specific Purposes within the Fiscal  
Year 2015-16

Resolution No. \_\_\_\_\_

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, appropriation of grants entrusted for specific purposes within Clackamas County budget for the period of July 1, 2015 through June 30, 2016, inclusive is necessary to authorize the expenditure of funds, for the needs of Clackamas County residents;

WHEREAS; the fund being adjusted is:

- . Social Services Fund
- . Children, Youth and Families Fund
- . Health Centers Fund
- . Juvenile Fund;

It further appearing that it is in the best interest of the County to approve these grants entrusted for specific purpose of appropriations for the period of July 1, 2015 through June 30, 2016.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.338, appropriation of specific purpose grants is authorized as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

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



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Resolution for Clackamas County for  
Transfer of Appropriations for Fiscal Year 2015-2016

Purpose/Outcome	Budget changes for Clackamas County FY 2015-2016
Dollar Amount and fiscal Impact	No fiscal impact. Transfer of existing appropriations.
Funding Source	N/A
Safety Impact	N/A
Duration	July 1, 2015-June 30, 2016
Previous Board Action/Review	Budget Adopted June 25, 2015, amended October 29 and December 10, 2015.
Contact Person	Diane Padilla, 503-742-5425
Contract No.	N/A

**BACKGROUND:** Periodically during the fiscal year it is necessary to transfer appropriations to more accurately reflect the changing requirements of the operating departments.

Transfers are a method of moving budgeted appropriations during the fiscal year as required by state budget law per ORS 294.463. There is no financial impact incurred as a result of transfers as appropriations for these amounts have been accomplished through the initial budget process.

The attached resolution accomplishes the above mentioned changes as requested by the following operating departments in keeping with a legally accurate budget.

The General Fund – Finance is realigning program costs to add a full-time Accounting Specialist position dedicated to Transient Room Tax administration.

The Library Service Fund is realigning its budgeted expenditures to make the final special payment to the City of Happy Valley.

The Planning Fund is transferring from contingency and budgeting to increase a part-time Senior Planner position to full-time and reclassifying another position

The Health, Housing and Human Services Administration Fund is transferring from contingency to add a new full-time Policy Analyst Senior position.

The Capital Projects Reserve Fund is transferring from contingency to capital projects for higher costs associated with the Sheriff Department's Roof project and the Oregon City Parking Lot project. This fund is also transferring from capital outlay to materials and services to better categorize expenses.

**RECOMMENDATION:**

Staff respectfully recommends adoption of the attached supplemental budget and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Diane Padilla

Budget Manager



In the Matter of Providing Authorization  
To Transfer Appropriations Within  
the Fiscal Year 2015-16

Resolution No. \_\_\_\_\_

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from appropriation category to another;

WHEREAS, transfer of appropriations for the period of July 1, 2015 through June 30, 2016, inclusive is necessary to continue to prudently manage the distribution of those expenditures for the needs of Clackamas County residents;

WHEREAS; the funds being adjusted are:

- . General Fund – Finance
- . Library Services Fund
- . Planning Fund
- . Health, Housing and Human Services Administration Fund
- . Capital Projects Reserve Fund;

It further appearing that it is in the best interest of the County to approve this transfer of appropriations for the period of July 1, 2015 through June 30, 2016.

BE RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.463, transfer of appropriation within the fiscal year budget is authorized as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

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



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Resolution Affirming that the Clackamas County 2015-2016 Fiscal Year  
Budget is Appropriated by Organizational Unit

Purpose/Outcome	Budget changes for Clackamas County FY 2015-2016
Dollar Amount and fiscal Impact	No fiscal impact of existing appropriations.
Funding Source	N/A
Safety Impact	N/A
Duration	July 1, 2015-June 30, 2016
Previous Board Action/Review	Budget Adopted June 25, 2015, amended October 29, 2015 and December 10, 2015
Contact Person	Diane Padilla, 503-742-5425
Contract No.	N/A

**BACKGROUND:** The 2015-2016 budget for Clackamas County was adopted on June 25, 2015 and has been amended on October 29, 2015 and December 10, 2015. It has always been the intention of the Board of Commissioners to appropriate by organizational unit within the various funds. To comply with a request from the County's auditors, the titles of the organizational units are now being updated to agree with the titles used in in Comprehensive Annual Financial Report. This action does not change the funds appropriated in any fund, it only changes the titles to better coordinate the budgeting and auditing processes.

**RECOMMENDATION:**

Staff respectfully recommends adoption of the resolution affirming that the Clackamas County 2015-2016 fiscal year budget is appropriated by organizational unit.

Sincerely,

Diane Padilla  
Budget Manager

In the Matter of Affirming  
that the 2015-16 Fiscal Year Budget  
is Appropriated by Organizational Unit

Resolution No. \_\_\_\_\_

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

The Fiscal Year 2015-16 Clackamas County Budget was adopted and has been amended at the organizational unit level. The titles of the organizational units are now being updated to agree with the titles used in the Comprehensive Annual Financial Report.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

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

DRAFT

Approval of Previous Business Meeting Minutes:  
February 25, 2016

(draft minutes attached)

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

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

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

**Thursday, February 25, 2016 – 10:00 AM**

**Public Services Building**

**2051 Kaen Rd., Oregon City, OR 97045**

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

**EXCUSED:** Commissioner Martha Schrader

### **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **I. CITIZEN COMMUNICATION**

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

1. Steve Schopp, Tualatin – spoke regarding transportation, Metro, Trimet and Senate Bill 1510A.

*~Board Discussion~*

### **II. PREVIOUSLY APPROVED LAND USE ISSUE**

1. Adoption of Board Order No. **2016-14** Approving a Comprehensive Plan Amendment and Zone Map Amendment from John Brosy/Goby Walnut & Western Hardwoods as Previously Approved at the October 28, 2015 Land Use Hearing

Nathan Boderman, County Counsel presented the staff report.

Chair Ludlow asked for a motion.

#### **MOTION:**

Commissioner Smith: I move we Approve the Board Order Approving a Comprehensive Plan Amendment and Zone Map Amendment from John Brosy/Goby Walnut & Western Hardwoods as Previously Approved at the October 28, 2015 Land Use Hearing.

Commissioner Savas: Second.

Clerk Calls the Poll

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – The motion passes 4-0

### **III. PUBLIC HEARINGS**

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

1. Approval of Board Order No. **2016-15** to Refer an Advisory Measure to the Voters in May 2016 to Pursue Public Funding of County Road Maintenance

Chris Storey, County Counsel, and Barb Cartmill, Department of Transportation & Development presented the staff report.

Chair Ludlow opened the public hearing and asked if anyone wishes to speak.

1. Ron LeBlanc, West Linn – representing the Clackamas County Republican Party, the CCRP will support the advisory vote as long as the Board puts the ballot measure to a vote in November with details of how money would be spent and includes a sunset.
2. Steve Schopp, Tualatin – Supportive of advisory vote to ask voters and inclusion of voter approval as part of the ballot question.

*~Board Discussion~*

Chair Ludlow closed the public hearing.

*~Board Discussion~*

**MOTION:**

Commissioner Savas: I move that we change the ballot language that is in the Board packet today to read shall the County pursue voter approved funding, for a limited number of years, for deferred road maintenance.

Commissioner Smith: Second.

*~Board Discussion~*

Clerk calls the poll

Commissioner Smith: Aye.

Commissioner Savas: Aye.

Commissioner Bernard: Aye.

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

Commissioner Smith continued discussions on Exhibit A for the Ballot Language. The Commissioners in the Explanatory Statement removed the words “**either and or precluding**” from the second paragraphs first sentence.

*~Board Discussion~*

Commissioners gave consensus to the change and also to strike the last sentence from the third paragraph.

*~Board Discussion~*

**MOTION:**

Commissioner Savas: I move to change the title to “advisory vote on voter-approved funding of County road maintenance”.

Commissioner Bernard: Second.

Clerk calls the poll

Commissioner Savas: Aye.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

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

County Counsel clarified that the Explanatory Statement should reflect with what the ballot question is. The Board gave consensus to add the words “**gas tax, or other user fee**” to the first sentence in the Explanatory Statement.

**MOTION:**

Commissioner Bernard: I move we approve the Board Order to Refer an Advisory Measure to the voters in May 2016 to Pursue Public Funding of County Road Maintenance as Amended.

Commissioner Smith: Second.

*~Board Discussion~*

*Clerk calls the poll*

Commissioner Smith: Aye.

Commissioner Savas: Aye.

Commissioner Bernard: Aye.

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

Chair Ludlow announced the Board will adjourn as the Board of County Commissioners and convene as the Service District No. 5 Board for the next public hearings.

**SERVICE DISTRICT NO. 5** (Street Lighting)

Wendi Coryell, Department of Transportation & Development, presented the following 6 Assessment Areas together, including a PowerPoint presentation.

2. Board Order No. **2016-16** Forming a 42-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 01-15, Pine View Meadow Subdivision
3. Board Order No. **2016-17** Forming a Three Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 33-15, Three Lot Partition
4. Board Order No. **2016-18** Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 58-15, Precision Axle Bldg. Addition
5. Board Order No. **2016-19** Forming a Three Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 65-15, Three Lot Partition
6. Board Order No. **2016-20** Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 55-15, Coachman Auto Body Bldg.
7. Board Order No. **2016-21** Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 07-13, Holly Farm Retail Structure

Chair Ludlow opened the public hearing and asked if anyone wished to speak on any of the 6 Assessment Areas, seeing none he closed the public hearing and asked for a motion.

**MOTION:**

- Commissioner Bernard: I move we approve the board orders for the 6 assessment areas within Clackamas County Services District No. 5 as presented today.
- Commissioner Smith: Second.
- Clerk calls the poll.
- Commissioner Savas: Aye.
- Commissioner Bernard: Aye.
- Commissioner Smith: Aye.
- Chair Ludlow: Aye - the motion passes 4-0.

Chair Ludlow announced the Board will adjourn as the Service District No. 5 Board and reconvene as the Board of County Commissioners for the remainder of the meeting.

**IV. CONSENT AGENDA**

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

**MOTION:**

- Commissioner Bernard: I move we approve the Consent Agenda including item G.1
- Commissioner Smith: Second.
- ~Board Discussion~
- Clerk calls the poll.
- Commissioner Bernard: Aye.
- Commissioner Smith: Aye.
- Commissioner Savas: Aye.
- Chair Ludlow: Aye – the motion passes 4-0.

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

1. Approval of a Sub-recipient Agreement with North Clackamas education Foundation for Teen Mentor Program at Lot Whitcomb and Milwaukie Elementary – *Children, Youth & Families*

**B. Department of Transportation & Development**

1. Resolution No. **2016-22** Initiating a Local Improvement District (LID) for Street and Storm Drainage Improvements on Starview Lane (P2431)

2. Approval to Purchase two 114SD Freightliner Dump Trucks from McCoy Freightliner for the Department of Transportation and Development - *Purchasing*

**C. Finance Department**

1. Approval of a Contract with Mag LLC for Improvements to the Clackamas County Parking Lot at 11<sup>th</sup> and Main Street, Oregon City

**D. Elected Officials**

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

**E. Juvenile Department**

1. Approval to Apply for the Mentoring for Child Victims of Commercial Sexual Exploitation (CSEC) and Domestic Sex Trafficking Initiative Grant

**F. Business & Community Services**

1. Approval of a Memorandum of Understanding between Boring-Damascus Grange No. 260 and Clackamas County Parks for the Purchase and Installation of Playground Equipment at the Boring Station Trailhead Park
2. Approval of a Title II Domestic Grant 16-DG-11060600-006 between Clackamas County Parks & Forest and the USDA Forest Service - Mt. Hood National Forest for the Dump Stoppers Program

**\*G. County Administration**

1. Approval of a Partnership Memorandum of Understanding for the Department of Justice Office of Violence Against Women Grant to Encourage Arrest and Enforcement of the Protection Orders Program for the Family Justice Center

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

1. Board Order No. **2016-23** Authorizing North Clackamas Parks and Recreation District to Apply for Oregon Parks and Recreation Department Land and Water Conservation Fund Grant Program for Wichita Park
2. Board Order No. **2016-24** Authorizing North Clackamas Parks and Recreation District to Apply for Oregon Parks and Recreation Department Local Government Grant Program for Hidden Falls
3. Board Order No. **2016-25** Authorizing North Clackamas Parks and Recreation District to Apply for Oregon Parks and Recreation Department Local Government Grant Program for North Clackamas Park

**VI. COUNTY ADMINISTRATOR UPDATE**

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

**VII. COMMISSIONERS COMMUNICATION**

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

**MEETING ADJOURNED – 11:23 AM**





Capt. Jenna Morrison  
Director

**CLACKAMAS COUNTY COMMUNITY CORRECTIONS**  
1024 MAIN STREET • OREGON CITY • OREGON • 97045  
TELEPHONE 503-655-8603 • • • FAX 503-650-8942

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Local Grant Agreement No. JR-15-032 between Clackamas County Community Corrections and Sub-Recipient Los Niños Cuentan for Community-Based Victim Services Programs

<b>Purpose/Outcome</b>	This Agreement will provide funding through Justice Reinvestment for community-based victim services programs.
<b>Dollar Amount and Fiscal Impact</b>	The Agreement value is \$40,000.
<b>Funding Source</b>	State of Oregon Criminal Justice Commission.
<b>Duration</b>	Effective upon full execution and terminates June 30, 2017.
<b>Previous Board Action/Review</b>	Biennial approval.
<b>Contact Person</b>	Captain Jenna Morrison, Director - Community Corrections – 503-655-8725

**BACKGROUND:** Justice Reinvestment dedicates 10% for victim services programs. Los Niños Cuentan will fund 0.5 FTE bilingual Volunteer Coordinator/Supervisor to support the programs in the Casa Hogar Emergency Shelter. The Volunteer Coordinator will work with staff and volunteers to increase access for victims to resources in the community, providing prevention and intervention services. They will also recruit and train volunteers, work closely with and train staff to support the need of victims of domestic violence and increase volunteer participation.

This grant was awarded in December with funds received in January. The Agreement specifies that the funds will be available for eligible costs beginning on the Project Start date of July 1, 2015 and ending on June 30, 2017.

**RECOMMENDATION:** Community Corrections respectfully requests that the Board of County Commissioners approves Grant Agreement No. JR-15-032 between Clackamas County and Los Niños Cuentan.

Respectfully submitted,

Captain Jenna Morrison  
Director, Community Corrections

**CLACKAMAS COUNTY, OREGON  
LOCAL GRANT AGREEMENT JR-15-032**

Project Name: ***Los Niños Cuentan***  
Project Number: ***58017***

This Agreement is between Clackamas County, Oregon, acting by and through its Department of Community Corrections (COUNTY) and **Los Niños Cuentan** (SUBSUBRECIPIENT), an Oregon Non-profit Organization.

**Clackamas County Data**

Grant Accountant: <b><i>Nora Jones</i></b>	Program Manager: <b><i>Nora Jones</i></b>
Clackamas County Community Corrections 1024 Main St Oregon City, OR 97045 503-655-8780 norajon@clackamas.us	Clackamas County Community Corrections 1024 Main St Oregon City, OR 97045 503-655-8780 norajon@co.clackamas.or.us

**SUBRECIPIENT Data**

Finance/Fiscal Representative: <b><i>Lorena Connelly</i></b>	Program Representative: <b><i>Lorena Connelly</i></b>
Los Niños Cuentan PO Box 1172 Clackamas OR, 97015 503-933-7840 losNiñoscuentan@gmail.com	Los Niños Cuentan PO Box 1172 Clackamas OR, 97015 503-933-7840 losNiñoscuentan@gmail.com
FEIN: 30-0499063	

**RECITALS**

1. According to the National Alliance to end Homelessness, domestic violence is the second leading cause of homelessness. When a survivor of domestic violence leaves her abuser, she and her children often leave without any possessions or source of income. Furthermore, unique challenges exist in finding temporary housing for mono-linguistic women and their children. More often than not, these families often "couch surf" or end up back in the abusive home.
2. Latino populations are among the poorest in Oregon. According to the Oregon Center for Public Policy, Latinos in Oregon experience a 28.8 percent poverty rate (2011). Many domestic violence survivors from Latino populations are living more than 100 percent below the poverty level. For most families, an emergency shelter is the last resort.
3. Existing shelters for women and children in Clackamas County are consistently full and services largely unavailable for mono-linguistic women.
4. Currently, Los Niños Cuentan is one of the organizations serving the needs of the Latina community with culturally specific programs and services within Clackamas County. As a result, mono-linguistic women in need of shelter and resources are referred to Los Niños Cuentan by county agencies and other organizations that do not have the capacity (language, etc.) required to serve this community. "Casa Hogar, Los Niños Cuentan's emergency shelter for Latino women, acts as an immediate

source of housing for women and children whose options for emergency shelter are severely limited. Casa Hogar provides a vital link to many of the families served by Los Niños Cuentan.

5. As a historically underserved population, Latina women and children affected by domestic abuse are offered several services during their stay at "Casa Hogar". Residents receive court advocacy, case management, counseling, support groups, co-case management with other agencies and the ability for their children to continue attending public schools. Los Niños Cuentan also connect residents with resources such as food stamps, cash assistance, and transitional housing.
6. The "Casa Hogar" emergency shelter meets established National Objectives with a "Presumed Benefit" to low and moderate income persons.
7. Justice Reinvestment Act Funds (JRA) will be used to support an existing Volunteer Coordinator position at 0.5 FTE. This Local Grant Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBSUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Local Grant Agreement the COUNTY and SUBSUBRECIPIENT agree as follows:

#### **AGREEMENT**

1. **Term and Effective Date.** This Agreement shall be effective as of the **July 1, 2015** and shall expire on **June 30, 2017**, unless sooner terminated or extended pursuant to the terms hereof.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. SUBRECIPIENT agrees to perform the Project 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 Department of Justice's Child Abuse Multidisciplinary Intervention Intergovernmental Grant Agreement that is the source of the grant funding, in addition to compliance with the statutory requirements stated in ORS 418.746-418.796.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the **CRIMINAL JUSTICE COMMISSION JUSTICE REINVESTMENT JR-15-032** issued to the COUNTY by the State of Oregon, Criminal Justice Commission. The maximum, not to exceed, grant amount that the COUNTY will pay is **\$40,000**.
5. **Disbursements.** Disbursements will be made in lump sum according to the following schedule:
  - 5.1. \$20,000 immediately upon execution of this agreement.
  - 5.2. \$20,000 upon receipt of second award installment from the State of Oregon, scheduled to be received sometime after October 1, 2016

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.
8. **Funds Available and Authorized.** The COUNTY certifies that it has received half of the grant award currently authorized to finance the costs of this Agreement within the current fiscal year budget, and is scheduled to receive the second and final installment after October 1, 2016. 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 advanced to SUBRECIPIENT 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 with the prior written approval of the COUNTY. At no time may budget modification changes 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 the Criminal Justice Commission Grants Management Handbook, located at [http://www.oregon.gov/cjc/grants/Documents/2015\\_CJC\\_Grants\\_Management\\_Handbook.pdf](http://www.oregon.gov/cjc/grants/Documents/2015_CJC_Grants_Management_Handbook.pdf).
  - e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period. Cost incurred prior to this date will be disallowed.
  - f) **Match.** Matching funds are not required for this Agreement.
  - g) **Payment.** SUBRECIPIENT shall submit an itemized invoice for the balance of the funds upon execution of this agreement.
  - h) **Performance and Financial Reporting.** SUBRECIPIENT must submit a Performance Report by July 10, 2016 and July 10, 2017 as specified in Exhibit C. SUBRECIPIENT must submit a preliminary and final Financial Report by July 10, 2016 and July 10, 2017

respectively as specified in Exhibit D. All reports must be submitted on SUBRECIPIENT letterhead, must reference this agreement number, and be signed and dated by an authorized official of SUBRECIPIENT.

- i) **Lobbying.** SUBRECIPIENT agrees that no portion of the grant funds will be used to engage in lobbying of the Federal, State, or County Government or in litigation against the United States unless authorized under existing law. In addition, the SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- j) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- k) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial records for the purpose of monitoring. COUNTY, the State of Oregon, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
- l) **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, 2017), 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.
- m) **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 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. SUBRECIPIENT shall comply with the terms of the Grant Management Handbook available at [http://www.oregon.gov/cjc/grants/Documents/2015\\_CJC\\_Grants\\_Management\\_Handbook.pdf](http://www.oregon.gov/cjc/grants/Documents/2015_CJC_Grants_Management_Handbook.pdf) and incorporated herein by reference.

- 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 to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

## 12. State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements in excess of \$100,000 must receive prior written approval from County in addition to any other approvals required by law applicable to the SUBRECIPIENT. Justification for sole-source procurement in excess of \$100,000 should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b) County's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under ORS 279C.520 and 279C.530, which are incorporated by reference herein.
- c) SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, SUBRECIPIENT shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

## 13. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- 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 officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute 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) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured. Additional insured shall include the Criminal Justice Commission, its officers, employees and agents as Additional Insureds but only with respect to SUBRECIPIENT's activities under this agreement.
  - 5) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 day notice of cancellation provision shall be physically endorsed on to the policy.
  - 6) **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.
  - 7) **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. The certificate will specify that all insurance-related provisions within the agreement have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
  - 8) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.
  - 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 agreement.
- c) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts 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 Attached)



SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT  
(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

CLACKAMAS COUNTY, OREGON

Los Niños Cuentan

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
Lorena Connelly, Executive Director

By: \_\_\_\_\_  
Recording Secretary

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

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

Approved to Form

By: \_\_\_\_\_  
County Counsel

- Exhibit A: SUBRECIPIENT Statement of Program Objectives
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Lobbying and Litigation Certificate
- Exhibit D: Performance Reporting

## **EXHIBIT A STATEMENT OF PROGRAM OBJECTIVES**

### **Scope**

SUBRECIPIENT will use Justice Reinvestment Act Funds to fund a .5 FTE Volunteer Coordinator/Supervisor to support the programs in the Casa Hogar Emergency Shelter. The Volunteer Coordinator will recruit, train and supervise the volunteers who will provide direct services and ensure compliance with grant requirements and provide quality control.

### **Activities**

- SUBRECIPIENT will provide prevention and intervention services for victims of domestic violence in the agency and other program participants.
- A bilingual and professionally trained .5 FTE Volunteer Coordinator will provide the foundation needed to help recruit and train volunteers for all areas of service within SUBRECIPIENT organization.

**EXHIBIT B  
PROGRAM BUDGET**

**Applicant Agency:** Los Niños Cuentan

**Proposed Service:** Community-based Victim Services

**Annual Budget**

<b>BUDGET CATEGORY</b>	<b>BUDGET 2015-2017</b>
<b>Volunteer Coordinator Salary and Fringe</b>	\$26,000
<b>Administrative costs</b>	\$8,000
<b>Rent/Utilities</b>	
<b>Supplies</b>	\$1,000
<b>Equipment</b>	\$3,000
<b>Travel/Training</b>	\$2,000
<b>TOTAL</b>	<b>\$40,000</b>

Provide detailed information about each line item listed above:

Funding will support .5 FTE Volunteer Coordinator. The Volunteer Coordinator (VC) will work with staff and volunteers to increase access for victims to resources in the community. The VC will provide trainings to volunteers and staff; recruit and train volunteers; work closely with staff to support the need of victims of domestic violence; and increase volunteer participation. Supplies included are for trainings and curriculum material. Equipment funding will be used to purchase a desktop computer and software for the Volunteer Coordinator and volunteers use. Travel and training funds are included to provide trainings in the community and mileage. Administration funding is set at 20% to assist in covering a portion of the required professional insurance.

## **EXHIBIT C**

### **Performance Reporting**

The Justice Reinvestment Act Funds will require **annual** reporting with a written progress report due **July 10, 2016 and July 20, 2017**.

SUBRECIPIENT will provide a success story illustrating the positive impact that the funds have had for a member(s) of the community. The success story(s) will identify how grant funding was utilized in the four components and criteria asked for in the Victim RFR section of the Justice Reinvestment Grant Program 2015-2017 Request for Applications:

- How did funded services target marginalized and underserved populations in the community?
- How have funded services addresses access barriers?
- How have funded services increased capacity where services are difficult to access, are limited or non-existent?
- How were funded services utilized to provide trauma-informed interventions?

**EXHIBIT D**  
**Final Financial Report**

<b>BUDGET CATEGORY</b>	<b>BUDGET</b>	<b>Expenditures through 6/30/16</b>	<b>FINAL EXPENDITURES</b>	<b>BALANCE</b>
<b>Volunteer Coordinator Salary and Fringe</b>	26,000			
<b>Administrative Costs</b>	8,000			
<b>Rent/Utilities</b>				
<b>Supplies</b>	1,000			
<b>Equipment</b>	3,000			
<b>Travel/Training</b>	2,000			
<b>TOTAL</b>	<b>40,000</b>			



March 24, 2016

Board of County Commissioner  
Clackamas County

Members of the Board:

A Board Order Approving the List of Tax Foreclosed Properties for Declaration as  
Surplus at Established Minimum Bid Amounts

<b>Purpose/Outcomes</b>	Return tax foreclosed parcels 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 March 1, 2016 to discuss these parcels. The Board approved the list of tax properties 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 amounts as presented.

Respectfully submitted,

Gary Barth, 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.

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

**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 \*\*\***

<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>	12E27DB02201 Unimproved Land-Clover Lane Happy Valley, OR Approximately .55 Acres	\$130,407	\$230,000	\$46,000
<b>2</b>	27E32AC03500 Unimproved Land- off of Winnie Road and Polly Road Approximately 1.09 Acres	\$35,096	\$26,322	\$5,264
<b>3</b>	27E33DD00300, 400, and 2700 Unimproved Land- off of Rockwood Creek Lane (Rhododendron) Approximately 2.82 Acres	\$25,032	\$6,258	\$1,252



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 24th day of March, 2016

**BOARD OF COUNTY COMMISSIONERS**

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Chair

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Recording Secretary



Gary Barth  
Director

**BUSINESS AND COMMUNITY SERVICES**

Development Services Building  
150 Beaver Creek Road Oregon City, OR 97045

March 24, 2016

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of an Oregon State Marine Board Facility Grant Two Party Cooperative Agreement  
with Portland General Electric

<b>Purpose/Outcomes</b>	Provides for the pass through of Oregon State Marine Board Grant Funds from County Parks to Portland General Electric for the construction and management of a non-motorized boat launch facility on US Forest Service property along the Upper Clackamas River.
<b>Dollar Amount and Fiscal Impact</b>	\$19,000
<b>Funding Source</b>	Oregon State Marine Board
<b>Duration</b>	June 30, 2016
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	1. Build Public Trust Through Good Government 2. Honor, Utilize, Promote and Invest in our Natural Resources
<b>Contact Person</b>	Rick Gruen, County Parks & Forest Manager – 503-742-4345
<b>Contract No.</b>	N/A

**BACKGROUND:**

Clackamas County Parks and Portland General Electric collaborated on a submittal of an Oregon State Marine Board grant application to secure funds to construct a non-motorized boat launch facility on US Forest Service property known as Hole in the Wall along the Upper Clackamas River. Oregon State Marine Board approved the application from County Parks to serve as the fiscal agent for the project. This Two-Party agreement recognizes the transfer of funds, responsibility and long term management of the project from County Parks to Portland General Electric. Oregon State Marine Board and US Forest Service are in agreement with this action. The Hole in the Wall facility, when complete, will provide a needed up-river access for non-motorized boaters and other river recreation users.

County Counsel has reviewed and approved the language of this Two Party Cooperative Agreement.

**RECOMMENDATION:**

Staff recommends the Board approve the attached Two Party Cooperative Agreement and sign on behalf of Clackamas County.

Respectfully submitted,

Gary Barth, Director  
Business and Community Services Director

**CLACKAMAS COUNTY PARKS  
FACILITY GRANT TWO PARTY COOPERATIVE AGREEMENT  
WITH  
PORTLAND GENERAL ELECTRIC COMPANY**

This Cooperative Agreement (this "Agreement") is entered into by and between Clackamas County Parks, acting by and through its Board of County Commissioners, hereinafter called the "Recipient," and Portland General Electric Company hereinafter called the "Manager."

**RECITALS**

WHEREAS, the Recipient is eligible to receive funding for boating facility projects from the Oregon State Marine Board under ORS § 830.150.

WHEREAS, the Manager has the authority from US Forest Service (Owner) to manage property known as Hole in the Wall located along the Clackamas River in the Mt. Hood National Forest in Oregon ("Hole in the Wall").

WHEREAS, US Forest Service has granted authority to Manager for the development and construction of a boat rail slide, single car and boat trailer parking and vault toilet at Hole in the Wall.

WHEREAS, the Recipient and Manager agree to comply with Oregon State Marine Board ("OSMB") Boating Facility Grant Program rules in OAR Chap. 250 Div. 014 and other OSMB adopted policies and procedures.

WHEREAS, the purpose of this Agreement is to set forth the obligations of the parties for the development and construction of a boat rail slide, single car and boat trailer parking and vault toilet at Hole in the Wall (hereinafter called the "Project") as more fully described in the Recipient's Facility Grant Cooperative Agreement #1540 – Hole in the Wall Boating Improvements attached as Exhibit A (the "Grant"). With this reference, the Grant is made part of this Agreement and if a conflict exists between the Grant and this Agreement, this Agreement will govern.

NOW, THEREFORE, the Recipient and Manager agree to the following:

**I. GENERAL PROVISIONS**

1. Project Funding. Upon approval of the Grant by the OSMB, grant funds in the amount of \$19,000.00 will be provided to the Recipient to fund the Project. The Recipient shall not use any funds described in this section for administration, overhead, or indirect costs whether or not related to this Agreement. Recipient will convey such funds to Manager for use in implementing the Project. Manager will provide supporting capital funds for the Project in the amount of \$75,960.00 as well as contribute an estimated sum of \$30,000.00 for project administration, pre-agreement and permitting costs.

2. Construction. Manager shall award, and monitor the contractor's performance under a construction contract in such a manner as to ensure compliance with the Project plans and specifications. Manager shall provide on-site project management. Manager shall notify Recipient, who in turn will notify the OSMB, of any proposed change in Project design, cost modifications, proposed change orders or modification of scope. The Manager shall be responsible for all costs associated with unauthorized changes or modifications unless otherwise specifically agreed to in writing by Recipient.
3. Payments. Manager agrees to make payment promptly to all contractors, subcontractors, vendors or any other persons supplying labor or materials for the project. Manager shall supply Recipient with copies of all invoices and documents related to contract payments. Manager shall be reimbursed by Recipient for the actual payment expenditures incurred up to the awarded amount received from OSMB.
4. Commercial Use. Under the Grant, Recipient is held to the following and therefore Manager agrees as follows:
  - a. The facilities will not be operated or used for commercial purposes, where the Manager:
    - i. has financial profit as a goal,
    - ii. charges any fees or receives any benefit to provide services, supplies or goods, or
    - iii. allows third parties to charge any fees or receive any benefit to provide services, supplies or goods.
5. Project Sign. Manager agrees to post in a conspicuous location at the Project, and in compliance with the OSMB's sign guidelines, a sign identifying the OSMB's and federal aid participation in the Project.
6. User Fees. Pursuant to the requirements of the Grant, Manager shall notify and request written approval from the OSMB of any user fees charged for the use of the improvements described herein during the term of this Agreement except as otherwise required by State or Federal law. Fees charged shall be reasonable and are subject to reasonable review and approval by the OSMB. If user fees are charged for the use of the completed Project, the Manager shall maintain sufficient records and accounting procedures that demonstrate all of the gross income from the fees used to defray direct operational costs (for example, maintenance and repair costs) for the Project. Notwithstanding the foregoing, fees charged by Manager for Hole in the Wall shall not be deemed fees under this Agreement.
7. Maintenance. The Manager shall at all times be responsible for the maintenance and operation of the Project and related facilities.
8. Compliance with Applicable Law. The Recipient and Manager agree to comply with Boating Facility Grant Program rules OAR Chap. 250 Div. 114 and all applicable OSMB adopted policies and procedures. The Recipient and Manager shall use best efforts to comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Grant. The Recipient and Manager shall, to the maximum extent economically feasible in the performance of the Agreement, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products) as defined in ORS 279A.010(1)(ff)), and other recycled plastic resin products and recycled products (as recycled product is defined in ORS 279A.010(1)(gg)).
9. Records Maintenance. The Recipient and Manager shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, the Recipient and Manager shall maintain any other records pertinent to this Agreement in such a manner as to clearly document the timely recording of receipt of funds by source, of expenditures made from such funds, and of unexpended

balances. Controls shall be established which are adequate to ensure that all expenditures reimbursed under this Agreement are for allowable purposes and that documentation is readily available to verify that such charges are accurate.

10. Access. The Recipient and Manager acknowledge and agree that the OSMB and the Oregon Secretary of State's Office and the federal government and duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of the Recipient and Manager that are pertinent to the Grant and related improvements to perform examinations and audits and make excerpts and transcripts. The Recipient and Manager shall retain and keep accessible all such fiscal records, books, documents, papers, plans and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.

11. Recipient /Manager Principal Contacts. Notifications should be made to OSMB immediately if principal contacts change.

Name/Title: Rick Gruen, Clackamas County Parks & Forest Manager  
Address: 150 Beaver Creek Road, Oregon City, OR 97045  
Phone/email: 503-742-4345(p) / rgruen@clackamas.us

Manager Contact:

Name/Title: Tony Dentel, Portland General Electric Company (PGE)  
Address: 121 SW Salmon Street, Portland, OR 97204  
Phone/email: 503-464-7009 / tony.dental@pgn.com

12. Term. The term of this Agreement shall commence on the Effective Date and shall continue for 20 years after the date of Project completion or the date of final payment issuance by the OSMB, whichever is later. The Effective Date is the date on which the last party to sign this Agreement duly executes this Agreement.

13. Project Completion. The Project shall be completed, and final billing for the Project shall be submitted by the Recipient to the OSMB, on or before June 30, 2016. Unless Recipient receives approval in writing, OSMB shall not be obligated to disburse any payments after this date.

14. Property Improvements. The parties acknowledge and agree that improvements placed on US Forest Service land shall thereupon become property of the United States, and shall be subject to the same regulations and administration of the US Forest Service as other improvements of a similar nature.

15. Ownership. Recipient and Manager acknowledge and agree that the Project is the exclusive property of the US Forest Service. No part of this Agreement shall entitle the Recipient, or Manager to any share or interest in the Project other than the right to use and enjoy the same under existing regulations of the US Forest Service.

16. Operation and Maintenance. Operation and maintenance of the Project will be the responsibility of the Manager under the authority granted by the US Forest Service. The Recipient is neither responsible nor liable in any manner for operation or maintenance of the Project.

17. Reimbursements. Upon receipt by Recipient of grant funds described in Section I.1 of Exhibit A, Recipient shall reimburse Manager for eligible funds expended by the Manager up to the full amount received from the OSMB. The Recipient and Manager shall not deduct any amount from the payment for overhead, administration or processing fees.

18. Responsible for Project. The Recipient is not responsible for the completion or any other performance with respect to the Manager's and Owner's proposed project except as described herein.

## II. INDEMNITY AND INSURANCE REQUIREMENTS

1. Indemnity. Manager agrees to indemnify, defend, and hold harmless the Recipient and its elected officials, officers, agents and employees against all liability, loss, and costs arising from actions, suits, claims, or demands, except when due to Recipient's sole negligence, arising from or relating to the performance of this Agreement.

2. Insurance. Manager shall obtain, at its expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form in the amount of not less than \$1 Million per occurrence/\$2 Million general aggregate for the protection of the Recipient, its elected officials, officers, agents, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to the Recipient.

Alternatively to the Commercial General Liability Insurance described above, Manager may maintain self-insurance in amounts deemed acceptable to Recipient upon the completion of the Self Insurance Certification attached hereto as Exhibit B.

## III. MISCELLANEOUS

1. Participation in Similar Activities. This Agreement in no way restricts the Manager or Recipient from participating in similar activities with other public or private agencies, organizations and individuals.

2. Duplicate Payment. The Recipient and Manager acknowledge and agree that they shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America.

3. Amendments. This Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, except by written instrument signed by all parties. Parties to this Agreement are not obligated to fund any changes not approved in advance.

4. Force Majeure. Neither the Recipient nor Manager shall be held responsible for delay or failure to perform when such delay or failure is due to fire, flood, epidemic, terrorism, strike, public carrier, act of God, act of a public enemy or a public authority or a cause which cannot be reasonably foreseen or provided against.

5. No Third-Party Beneficiaries. The Recipient and Manager are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

6. Tax Compliance. The Recipient and Manager have the authority and knowledge regarding their payment of taxes and to the best of their knowledge, they are not in violation of any Oregon tax laws.

7. Successors and Assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Recipient and Manager and their respective successors and assigns; provided however that the Recipient or Manager may not assign this Agreement or any interest therein without the prior written consent of the other party, which consent shall not be unreasonably withheld.

8. Alternative Dispute Resolution. The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

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

10. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to the Recipient or the Manager at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as any party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

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

12. Governing Law; Venue; 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, or federal law, as applicable. Any claim, action, suit or proceeding collectively, "Claim" between the Recipient and Manager that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon, or the Court of Federal Claims as appropriate.

14. Merger Clause; Waiver. THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE MANAGER AND THE RECIPIENT ON THE SUBJECT MATTER HEREOF. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND ANY PARTY UNLESS IN WRITING AND SIGNED BY THE MANAGER, AND THE RECIPIENT. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. THE DELAY OR FAILURE OF A PARTY TO ENFORCE ANY PROVISION OF THIS AGREEMENT SHALL NOT CONSTITUTE A WAIVER BY SUCH PARTY OF THAT PROVISION OR ANY OTHER PROVISION. THE MANAGER, AND RECIPIENT, BY THE SIGNATURE BELOW OF THEIR RESPECTIVELY AUTHORIZED REPRESENTATIVES, HEREBY ACKNOWLEDGES THAT THEY HAVE EACH READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

RECIPIENT:

Clackamas County

By: \_\_\_\_\_  
John Ludlow

Title: Board Chair

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

Telephone: (503) 742-4299

Fax No: (503) 742-4420

Address: 150 Beaver Creek Road

Oregon City, OR 97045

Fed. Employer ID Number: 93-6002286

DUNS ID No. 096992656

MANAGER:

Portland General Electric Company *JML*

By: *Maria M. Pope*  
**Maria M. Pope**  
SRVP Power Supply &  
Operations & Resource Strategy

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

Date: *3/2/2016*

Telephone: *503-464-2095*

Fax No: *503-464-2022*

Address: *421 S.W. Salmon St*

*Portland, OR 97204*

Fed. Employer ID Number: *93-0256820*





March 24, 2016

Board of County Commissioners acting as  
North Clackamas Parks & Recreation District Board  
Clackamas County

Members of the Board:

Approval of a Funding Agreement between the Clackamas County Development Agency and the North Clackamas Parks and Recreation District

<b>Purpose/Outcomes</b>	This Agreement will allow the Development Agency (Agency) to provide funds toward debt service related to North Clackamas Parks and Recreation (NCPRD) facilities.
<b>Dollar Amount and Fiscal Impact</b>	Clackamas County Development Agency: Clackamas Town Center Urban Renewal District – no County General Funds involved.
<b>Funding Source</b>	Up to \$1,500,000
<b>Duration</b>	The Agreement will terminate March 31, 2025.
<b>Previous Board Action</b>	At a February 4, 2014 study session, the Board approved allocating up to \$1,500,000 to NCPRD. At a January 19, 2016 study session, the Board directed staff to proceed with a funding agreement with NCPRD.
<b>Strategic Plan Alignment</b>	Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Laura Zentner, BCS Deputy Director, Business and Community Services – (503) 742-4351
<b>Contract No.</b>	N/A

**BACKGROUND:**

With Board direction to proceed with funding, NCPRD and the Development Agency held several discussions about the most beneficial use of the \$1,500,000 allocation. While the Urban Renewal Plan provides great flexibility regarding park site development throughout the plan area, discussions have been focused on debt service assistance associated with current NCPRD facilities within the area. More specifically, debt service currently associated with the North Clackamas Aquatic Park. Assistance of this nature would afford the District the ability to advance early payment of current debt or the ability to redirect district funds currently allocated for debt service to other beneficial uses.

Consistent with previous funding agreements with other Districts, the Plan and state statute allow the urban renewal district to pay debt service to assist in meeting the needs called out in the current plan.

Agency and NCPRD staff presented the option of providing funds toward debt service on the Aquatic Park at a Board study session on January 19, 2016. The Board concurred and directed staff to proceed with a Funding Agreement

The Funding Agreement stipulates that the Agency will provide \$1,500,000 to NCPRD within 60 days of the effective date of the agreement. NCPRD is required to place the funds into a debt retirement account, sinking fund or other restricted designation within 60 days of receipt of funds.

**RECOMMENDATION:**

Staff recommends the Board approve and execute the Funding Agreement between the Clackamas County Development Agency and the North Clackamas Parks and Recreation District.

Respectfully submitted,

Laura Zentner, CPA  
BCS Deputy Director

**North Clackamas Parks and Recreation District  
FUNDING AGREEMENT**

This Agreement is entered into and is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County, Oregon (the "Agency"), and North Clackamas Parks and Recreation District, a county service district formed pursuant to ORS Chapter 451 (the "District"). The Agency and the District hereby agree as follows:

RECITALS:

A. The Agency administers the Clackamas Town Center Urban Renewal Plan (the "Plan") pursuant to ORS Chapter 457. The Plan was duly adopted and approved by the Board of County Commissioners on December 30, 1980, and most recently amended on June 16, 2005.

B. The District is an entity organized for the purpose of providing parks and recreation programs, facilities and services in North Clackamas County and the surrounding area.

C. A goal of the Plan is to fund park site development and acquisition projects in the area. The District has pursued a possible partnership with the Agency regarding construction of ball fields in the Plan area but the site was ultimately found infeasible and no further action was taken regarding implementation of the Plan goals relating to park development.

D. In 1994, the District constructed and began operating the North Clackamas Aquatic Center (the "Aquatic Center") and has been providing recreational opportunities to residents of the District and beyond since that time.

E. In April 2013, the Clackamas County Board of Commissioners (the "Board") directed staff to identify partnership opportunities with the overlapping taxing districts affecting properties within the boundaries designated by the Plan.

F. On February 4, 2014, the Board approved the allocation of \$1,500,000 (the "Agency Funds") to the District to use for certain projects, including funding to be directed to the District to develop needed public spaces.

G. The District has requested that the Agency provide funding to assist with debt associated with the construction and capital facilities of the Aquatic Center (the "Project"). In exchange for such funding, the District will be able to operate the Aquatic Center in accordance with the terms and conditions of this Agreement and to use the Project in conformity with the Plan and applicable law.

H. The Agency is willing to allocate funds to the District for the purpose set forth herein. The funding for such purposes by the Agency to District is subject to the conditions provided in this Agreement.

## **AGREEMENT:**

### **Section 1: Operation of the Aquatic Center; Uses of Proceeds**

Within 60 days of receipt of the Agency Funds, defined below, the District or its successor agrees to apply the Agency Funds to the debt obligation associated with the Aquatic Center. For the purposes of clarity, the parties agree that placing the Agency Funds into a debt retirement account, sinking fund or other restricted designation meets the application requirement. Furthermore, the District or its successor shall operate the Aquatic Center or cause it to be operated to provide or support recreational opportunities for the District. The District shall operate the Aquatic Center for the purpose stated herein until the termination date of this Agreement, set forth below.

At the time of execution hereof, the District or its successors shall own, and have all ownership responsibility and duties regarding the Aquatic Center.

### **Section 2: Funding**

In consideration of the obligations undertaken by the District pursuant to this Agreement, the Agency agrees to allocate the Agency Funds for the purposes discussed above and subject to the terms and conditions provided herein.

In the event the Agency Funds are not used for the purpose expressly provided in Section 1 of this Agreement, or where the District has defaulted under this Agreement, the Agency may require the District to reimburse all or part of such, as provided below in Section 3C.

### **Section 3: Disbursement of Funds; Security for Performance**

A. The Plan specifically authorizes the Agency to make funds available to fund the development of needed public spaces. Pursuant to specific direction from the Board, the Agency shall make the Agency Funds available to the District for the Project from the allocated funds as more specifically described in Section 2 of this Agreement, and as authorized by ORS Chapter 457.

B. Within 60 days of the Effective Date of this Agreement, the Agency shall transfer the Agency Funds to the District.

C. In the event the District is in default of its obligations under Section 1 of this Agreement, then the Agency shall be entitled to recover from the District or its successors or assigns up to the full amount of the funds directed to the District in connection with the Project. Amounts recoverable under this subsection shall be determined by evaluating the scope of the default and the default's effect on the Plan's goal. If the Agency intends to recover funds under this subsection, the Agency shall provide the District with reasonable written notice of the default as well as a reasonable opportunity for the District to cure and/or explain such default.

### **Section 5: Termination**

So long as there is no outstanding event of default, this Agreement shall terminate on March 31, 2025.

**Section 6: Indemnification**

- A. Subject to the tort limitations in the Oregon Tort Claims Act and Oregon Constitution, Agency agrees to indemnify, save harmless and defend the District, its officers, Board of Directors, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of Agency or Agency's officers, owners, employees, agents, or its subcontractors or anyone over which Agency has a right to control related to this Agreement
- B. Subject to the tort limitations in the Oregon Tort Claims Act and the Oregon Constitution, District agrees to indemnify, save harmless and defend Agency, its officers, commissioners, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of the District or the District's officers, owners, employees, agents, or its subcontractors or anyone over which the District has a right to control.

**Section 7: Nonliability of Officials and Employees**

No official or employee of the Agency shall be personally liable to the District for any obligation under the terms of this Agreement.

No official or employee of the District shall be personally liable to the Agency for any obligation under the terms of this Agreement.

**Section 8: Nonwaiver of Government Rights**

This Agreement is no way intended to limit, restrict or modify the rights of Clackamas County or any other governmental agency to exercise ordinary police powers over the Project.

**Section 9: General Provisions**

A. **Prior Agreements.** This instrument is the entire, final and complete Agreement of the parties pertaining to the rights and obligations of the parties with respect to the Project and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives in connection therewith. Neither party shall be bound by any promises, representations or agreements except as are herein expressly set forth.

B. **Notices.** Any notice required or permitted under this Agreement shall be in writing and shall be given and actually delivered in person or deemed delivered 48 hours after having been deposited in the United States Mail as certified mail addressed to the addresses set forth below:

to: North Clackamas Parks and Recreation District  
Attn: Gary Barth  
150 Beaver Creek Road  
Oregon City, Oregon 97045

to: Clackamas County Development Agency  
Attn: Dan Johnson  
150 Beaver Creek Road  
Oregon City, Oregon 97045

or as addressed in such other way in respect to either party, as that party may from time to time designate in writing dispatched as provided in this Section.

C: **Amendments.** This Agreement may be amended, modified or extended only by written instrument executed by both parties.

D: **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

E: **Binding Effect.** Covenants, conditions and terms of this Agreement shall extend to and be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

F: **Execution and Counterparts.** This Agreement may be executed in any number of counterparts each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

H: **Non-Assignment.** This Agreement may not be assigned in whole or in part without the prior written consent of Agency, which may withhold its consent in its sole discretion.

I: **Subleasing.** The Project may not be subleased without prior written consent of Agency, which may withhold its consent in its sole discretion.

I: **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

J: **Waiver.** The Agency and District shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

IN WITNESS WHEREOF, the Agency and the District have executed this Agreement as of the date first above written.

[Signatures on Following Page]

**“AGENCY”**

BOARD OF COUNTY COMMISSIONERS acting as  
the governing body of the Clackamas County  
Development Agency

By: \_\_\_\_\_

Chair

By: \_\_\_\_\_

Recording Secretary

**“DISTRICT”**

BOARD OF COUNTY COMMISSIONERS acting as  
the governing body of the North Clackamas Parks  
and Recreation District

By: \_\_\_\_\_

Chair

By: \_\_\_\_\_

Recording Secretary



**DAN JOHNSON**  
MANAGER

**DEVELOPMENT AGENCY**

**DEVELOPMENT SERVICES BUILDING**  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

March 24, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Funding Agreement between the Clackamas County Development Agency and  
the North Clackamas Parks and Recreation District

<b>Purpose/Outcomes</b>	This Agreement will allow the Development Agency (Agency) to provide funds toward debt service related to North Clackamas Parks and Recreation (NCPRD) facilities
<b>Dollar Amount and Fiscal Impact</b>	Clackamas County Development Agency: Clackamas Town Center Urban Renewal District – no County General Funds involved.
<b>Funding Source</b>	Up to \$1,500,000
<b>Duration</b>	The Agreement will terminate March 31, 2025.
<b>Previous Board Action</b>	At a February 4, 2014 study session, the Board approved allocating up to \$1,500,000 to NCPRD. At a January 19, 2016 study session, the Board directed staff to proceed with a funding agreement with NCPRD.
<b>Strategic Plan Alignment</b>	Ensure safe, healthy and secure communities
<b>Contact Person</b>	Dan Johnson, Assistant Director, Clackamas County Department of Transportation and Development – (503) 742-4325
<b>Contract No.</b>	N/A

**BACKGROUND:**

With Board direction to proceed with funding, the Agency had several discussions with NCPRD about the most beneficial use of the \$1,500,000 allocation. While the Urban Renewal Plan provides great flexibility regarding park site development throughout the plan area, discussions have been focused on debt service assistance associated with current NCPRD facilities within the area. More specifically, debt service currently associated with the North Clackamas Aquatic Center. Assistance of this nature would afford the district the ability to advance early payment of current debt or the ability to redirect district funds currently allocated for debt service to other beneficial uses.



Consistent with previous funding agreements with other districts, the Plan and state statute allow the urban renewal district to pay debt service to assist in meeting the needs called out in the current plan.

Agency and NCPRD staff presented the option of providing funds toward debt service on the Aquatic Center at a Board study session on January 19, 2016. The Board concurred and directed staff to proceed with a Funding Agreement

The Funding Agreement stipulates that the Agency will provide \$1,500,000 to NCPRD within 60 days of the effective date of the agreement. NCPRD is required to place the Agency funds into a debt retirement account, sinking fund or other restricted designation within 60 days of receipt of funds.

**RECOMMENDATION:**

Staff recommends the Board approve and authorize the Board Chair to execute the Funding Agreement between the Clackamas County Development Agency and the North Clackamas Parks and Recreation District.

Respectfully submitted,

Dan Johnson, Manager  
Development Agency

**North Clackamas Parks and Recreation District  
FUNDING AGREEMENT**

This Agreement is entered into and is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County, Oregon (the "Agency"), and North Clackamas Parks and Recreation District, a county service district formed pursuant to ORS Chapter 451 (the "District"). The Agency and the District hereby agree as follows:

RECITALS:

A. The Agency administers the Clackamas Town Center Urban Renewal Plan (the "Plan") pursuant to ORS Chapter 457. The Plan was duly adopted and approved by the Board of County Commissioners on December 30, 1980, and most recently amended on June 16, 2005.

B. The District is an entity organized for the purpose of providing parks and recreation programs, facilities and services in North Clackamas County and the surrounding area.

C. A goal of the Plan is to fund park site development and acquisition projects in the area. The District has pursued a possible partnership with the Agency regarding construction of ball fields in the Plan area but the site was ultimately found infeasible and no further action was taken regarding implementation of the Plan goals relating to park development.

D. In 1994, the District constructed and began operating the North Clackamas Aquatic Center (the "Aquatic Center") and has been providing recreational opportunities to residents of the District and beyond since that time.

E. In April 2013, the Clackamas County Board of Commissioners (the "Board") directed staff to identify partnership opportunities with the overlapping taxing districts affecting properties within the boundaries designated by the Plan.

F. On February 4, 2014, the Board approved the allocation of \$1,500,000 (the "Agency Funds") to the District to use for certain projects, including funding to be directed to the District to develop needed public spaces.

G. The District has requested that the Agency provide funding to assist with debt associated with the construction and capital facilities of the Aquatic Center (the "Project"). In exchange for such funding, the District will be able to operate the Aquatic Center in accordance with the terms and conditions of this Agreement and to use the Project in conformity with the Plan and applicable law.

H. The Agency is willing to allocate funds to the District for the purpose set forth herein. The funding for such purposes by the Agency to District is subject to the conditions provided in this Agreement.

## **AGREEMENT:**

### **Section 1: Operation of the Aquatic Center; Uses of Proceeds**

Within 60 days of receipt of the Agency Funds, defined below, the District or its successor agrees to apply the Agency Funds to the debt obligation associated with the Aquatic Center. For the purposes of clarity, the parties agree that placing the Agency Funds into a debt retirement account, sinking fund or other restricted designation meets the application requirement. Furthermore, the District or its successor shall operate the Aquatic Center or cause it to be operated to provide or support recreational opportunities for the District. The District shall operate the Aquatic Center for the purpose stated herein until the termination date of this Agreement, set forth below.

At the time of execution hereof, the District or its successors shall own, and have all ownership responsibility and duties regarding the Aquatic Center.

### **Section 2: Funding**

In consideration of the obligations undertaken by the District pursuant to this Agreement, the Agency agrees to allocate the Agency Funds for the purposes discussed above and subject to the terms and conditions provided herein.

In the event the Agency Funds are not used for the purpose expressly provided in Section 1 of this Agreement, or where the District has defaulted under this Agreement, the Agency may require the District to reimburse all or part of such, as provided below in Section 3C.

### **Section 3: Disbursement of Funds; Security for Performance**

A. The Plan specifically authorizes the Agency to make funds available to fund the development of needed public spaces. Pursuant to specific direction from the Board, the Agency shall make the Agency Funds available to the District for the Project from the allocated funds as more specifically described in Section 2 of this Agreement, and as authorized by ORS Chapter 457.

B. Within 60 days of the Effective Date of this Agreement, the Agency shall transfer the Agency Funds to the District.

C. In the event the District is in default of its obligations under Section 1 of this Agreement, then the Agency shall be entitled to recover from the District or its successors or assigns up to the full amount of the funds directed to the District in connection with the Project. Amounts recoverable under this subsection shall be determined by evaluating the scope of the default and the default's effect on the Plan's goal. If the Agency intends to recover funds under this subsection, the Agency shall provide the District with reasonable written notice of the default as well as a reasonable opportunity for the District to cure and/or explain such default.

### **Section 5: Termination**

So long as there is no outstanding event of default, this Agreement shall terminate on March 31, 2025.

**Section 6: Indemnification**

- A. Subject to the tort limitations in the Oregon Tort Claims Act and Oregon Constitution, Agency agrees to indemnify, save harmless and defend the District, its officers, Board of Directors, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of Agency or Agency's officers, owners, employees, agents, or its subcontractors or anyone over which Agency has a right to control related to this Agreement
- B. Subject to the tort limitations in the Oregon Tort Claims Act and the Oregon Constitution, District agrees to indemnify, save harmless and defend Agency, its officers, commissioners, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of the District or the District's officers, owners, employees, agents, or its subcontractors or anyone over which the District has a right to control.

**Section 7: Nonliability of Officials and Employees**

No official or employee of the Agency shall be personally liable to the District for any obligation under the terms of this Agreement.

No official or employee of the District shall be personally liable to the Agency for any obligation under the terms of this Agreement.

**Section 8: Nonwaiver of Government Rights**

This Agreement is no way intended to limit, restrict or modify the rights of Clackamas County or any other governmental agency to exercise ordinary police powers over the Project.

**Section 9: General Provisions**

A. **Prior Agreements.** This instrument is the entire, final and complete Agreement of the parties pertaining to the rights and obligations of the parties with respect to the Project and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives in connection therewith. Neither party shall be bound by any promises, representations or agreements except as are herein expressly set forth.

B. **Notices.** Any notice required or permitted under this Agreement shall be in writing and shall be given and actually delivered in person or deemed delivered 48 hours after having been deposited in the United States Mail as certified mail addressed to the addresses set forth below:

to: North Clackamas Parks and Recreation District  
Attn: Gary Barth  
150 Beaver Creek Road  
Oregon City, Oregon 97045

to: Clackamas County Development Agency  
Attn: Dan Johnson  
150 Beaver Creek Road  
Oregon City, Oregon 97045

or as addressed in such other way in respect to either party, as that party may from time to time designate in writing dispatched as provided in this Section.

C: **Amendments.** This Agreement may be amended, modified or extended only by written instrument executed by both parties.

D: **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

E: **Binding Effect.** Covenants, conditions and terms of this Agreement shall extend to and be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

F: **Execution and Counterparts.** This Agreement may be executed in any number of counterparts each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

H: **Non-Assignment.** This Agreement may not be assigned in whole or in part without the prior written consent of Agency, which may withhold its consent in its sole discretion.

I: **Subleasing.** The Project may not be subleased without prior written consent of Agency, which may withhold its consent in its sole discretion.

I: **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

J: **Waiver.** The Agency and District shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

IN WITNESS WHEREOF, the Agency and the District have executed this Agreement as of the date first above written.

[Signatures on Following Page]

**“AGENCY”**

BOARD OF COUNTY COMMISSIONERS acting as  
the governing body of the Clackamas County  
Development Agency

By: \_\_\_\_\_

Chair

By: \_\_\_\_\_

Recording Secretary

**“DISTRICT”**

BOARD OF COUNTY COMMISSIONERS acting as  
the governing body of the North Clackamas Parks  
and Recreation District

By: \_\_\_\_\_

Chair

By: \_\_\_\_\_

Recording Secretary



March 24, 2016

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of the Intergovernmental Agreement between  
 Clackamas County Service District No. 1 and City of Happy Valley, Oregon  
for Street Sweeping Services

<b>Purpose/Outcomes</b>	Board approval of the IGA between CCSD#1 and the City of Happy Valley for street sweeping services.
<b>Dollar Amount and Fiscal Impact</b>	\$83,000 budgeted in CCSD#1 Surface Water Management budget for 2015-2016.
<b>Funding Source</b>	CCSD#1 Surface Water Fees. No County General Funds are involved.
<b>Duration</b>	Effective July 1, 2015. Renews annually for up to 5 years.
<b>Previous Board Action</b>	Approval of previous IGA on 022312 VI. 1.
<b>Strategic Plan Alignment</b>	1. Meeting stormwater regulatory compliance requirements. 2. Honor, utilize, promote and invest in our natural resources.
<b>Contact Person</b>	Ron Wierenga, Surface Water Manager – WES 503-742-4581
<b>Contract No.</b>	

**BACKGROUND:**

Clackamas County Service District No. 1 (CCSD#1) has been working with the City of Happy Valley, Oregon to provide enhanced street sweeping activities since 2012. The Project has two primary objectives:

- a) Sweep designated streets and arterial roads within the District in order to remove dirt and debris from the road surface before it enters the storm drainage ways and is conveyed to nearby streams and waterways.
- b) Demonstrate a cooperative approach to meeting the Clackamas County DEQ MS4 and TMDL Permit requirements.

The purpose of this intergovernmental agreement is to authorize Happy Valley to sweep roads in the district and to seek reimbursement for costs associated with the enhanced street sweeping program.

**RECOMMENDATION:**

Staff recommends the Board approve the IGA between CCSD#1 and the City of Happy Valley for street sweeping services.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services



**INTERGOVERNMENTAL AGREEMENT BETWEEN  
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1  
and CITY OF HAPPY VALLEY, OREGON  
FOR STREET SWEEPING SERVICES**

This Intergovernmental Agreement (“Agreement”) is entered into on \_\_\_\_\_, 2015 by and between the City of Happy Valley, Oregon (“CITY”), and Clackamas County Service District No. 1 (“DISTRICT”) for the provision of street sweeping services on designated streets and arterials within the boundaries of the DISTRICT.

This Agreement is authorized pursuant to ORS 190.110 and becomes effective upon full execution by the parties.

1. Effective Date and Duration. This Agreement shall become effective upon execution by the DISTRICT and the CITY. Unless earlier terminated or extended, this Agreement shall expire on June 30, 2016 and automatically renew on July 1 for a one year term for a cumulative total of no more than (5) years.
2. Statement of Work. The statement of work is attached hereto as Attachment 1 (“Statement of Work”) and incorporated by reference into this Agreement. The CITY agrees to perform the services described in the Statement of Work in accordance with the terms and conditions of this Agreement.
3. Consideration. DISTRICT agrees to pay the CITY an agreed upon rate per hour for services provided under this Agreement as described in the Statement of Work. The parties shall update the Statement of Work throughout the term of this Agreement as necessary.
4. Schedule of Performance. The delivery schedule for the provision of these services is described in the Statement of Work and CITY agrees to perform as set forth therein.
5. Project Location. Street sweeping services provided under this Agreement will occur on designated streets and arterials as described in the Statement of Work.
6. Project Managers. Each party has designated a project manager to be the formal representative for this Agreement. All reports, notices, and other communications required under or relating to this Agreement shall be directed to the appropriate project manager at their address below:

City of Happy Valley  
Chris Randall  
C/o City of Happy Valley  
16000 SE Misty Drive  
Happy Valley, OR 97086  
(503)783-3800

Clackamas County Service District No. 1  
Ron Wierenga  
C/o Water Environment Services  
150 Beaver Creek Rd.  
Oregon City, OR 97045  
(503) 557-2801

7. Agreement Documents. This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement, Attachment 1 (Statement of Work) and Figure 1.
8. 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.
9. Reimbursement.
  - A. On a quarterly basis the CITY shall submit itemized invoices to DISTRICT for reimbursement of services performed during the preceding quarter, noting the project and DISTRICT contract number, describing the work done with sufficient particularity, the allocation of costs, all in accordance with line items set forth in the Statement of Work.
  - B. The quarterly invoice shall be submitted no later than 30 days following the end of that performance period.
  - C. Invoices shall be submitted in duplicate, identifying the DISTRICT agreement number to Project Managers listed above. Project Managers shall pay all approved invoices within 30 days. If there is a dispute regarding the level of service provided, the DISTRICT shall pay the undisputed amounts and the Project Managers shall meet to discuss the disputed amounts.
10. Termination.
  - A. The parties may agree to an immediate termination of this Agreement or at a time certain upon mutual written consent.
  - B. Either party may terminate this Agreement effective not less than 30 days from delivery of written notice or at such other date as may be established by both parties under any of the following conditions:
    - 1) If funding is not obtained and continued at levels sufficient to allow for purchase of the specified services. When possible, and when agreed upon, the Agreement may be modified to accommodate a reduction in funds.
    - 2) If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement, or are no longer eligible for the funding proposed for payments authorized by this Agreement.
  - C. Either party may terminate this Agreement in the event of a breach by the other party. Prior to such termination, however, the party seeking termination shall give the breaching party written notice of intent to terminate. If the party has not cured the breach within 10 days of receipt of the notice of termination, the party seeking compliance may terminate this Agreement without further action.

11. Funds Available and Authorized. Both parties certify that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within either party's current appropriation and limitation for Fiscal Year 2015-2016. Both parties understand and agree that payment of amounts under this Agreement attributable to work performed after the end of the current fiscal year is contingent on either party receiving appropriations, limitations, or other expenditure authority. If the DISTRICT's Board does not appropriate funds for subsequent fiscal years for the balance of this Agreement, the DISTRICT may immediately terminate this Agreement by giving written notice to the CITY.
12. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.
13. Access to Records. Both parties and their duly authorized representatives shall have access to the books, documents, papers, and records that are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts.
14. Compliance with Applicable Law. Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement.
15. No Third Party Beneficiary. The DISTRICT and the CITY are the only parties to this Agreement and as such, are the only parties entitled to enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
16. Indemnification. Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each party agrees to indemnify and defend the other and its officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this Agreement, including: the cost of defense, attorney fees arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, subcontractors or representatives.
17. Merger Clause & Counterparts. This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. This Agreement may be executed in two or more counterparts, which collectively shall represent a single binding agreement.

[Signature Page Follows]

IN WITNESS HEREOF, the parties hereby agree to this Agreement:

**Clackamas County Board of County  
Commissioners on behalf of  
Clackamas County Service District No. 1**

**City of Happy Valley**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Jason Tuck, City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form:

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



March 24, 2016

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with  
 City Of Gladstone and Clackamas County Service District #1  
for Environmental Monitoring and Laboratory Services

<b>Purpose/Outcomes</b>	Provide environmental monitoring and laboratory analysis required for Gladstone to meet their permit requirements as an MS 4 co-permittee.
<b>Dollar Amount and Fiscal Impact</b>	Annual revenue of \$ 2,000.
<b>Funding Source</b>	NA -No County General Funds are involved.
<b>Duration</b>	Effective upon signature and expires on June 30, 2017
<b>Previous Board Action</b>	None.
<b>Strategic Plan Alignment</b>	1. Supports Key Results for Environmental Monitoring 2. Supports the goal of ensuring ratepayers have a properly functioning infrastructure that supports healthy waterways
<b>Contact Person</b>	Mona LaPierre, Monitoring and Compliance Manager, WES – 503-557-2830
<b>Contract No.</b>	NA

**BACKGROUND:**

Clackamas County Service District #1 requests the approval of an Intergovernmental Agreement (“IGA”) with the City of Gladstone.

Clackamas County Service District No. 1 (“CCSD#1”) and the City of Gladstone are co-permittees on Phase I municipal separate storm sewer system permits (“MS4 Permits”) issued by the Oregon Department of Environmental Quality (“Department”). Requirements of the permit include monitoring and laboratory analysis in the MS 4 permitted area.

Five of the co-permittees have developed a Comprehensive Clackamas County Monitoring Plan dated June 2013. The Oregon Department of Environmental Quality adopted the plan, and the City of Gladstone wishes to have an agreement so that sampling and laboratory analysis will be performed by CCSD#1 staff and reimbursed based upon time and materials.

Staff assessed the impact of the arrangement and determined that it could be accommodated without significant impact our current regulatory and district obligations. In addition, coordinating these services

between the co-permittees will allow for a holistic approach in data analysis for the County's MS 4 system. This IGA is based upon labor costs and cost of analyses.

County Counsel reviewed this document.

**RECOMMENDATION:**

Staff recommends the Board approve this agreement.

Respectfully submitted,

Gregory Geist  
WES- Director

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

This Intergovernmental Agreement (“Agreement”) is entered into by and between the **City of GLADSTONE** (“City”), a political subdivision of the State of Oregon, and **Clackamas County Service District No. 1** (“District”), a county service district formed under Oregon Revised Statutes chapter 451, for the provision of stormwater quality monitoring services. This Agreement is authorized pursuant to ORS 190.110.

1. **Effective Date and Duration.** This Agreement shall become effective upon signature by District representative. Unless earlier terminated or extended, this Agreement shall expire on June 30, 2017 (“Expiration Date”). This Agreement shall automatically renew for one (1) additional two-year period, unless otherwise terminated by the parties pursuant to Section 9 below. This Agreement may be otherwise extended by mutual written agreement of the parties at any time prior to its Expiration Date.
2. **Statement of Work.** The statement of work (the “Work”) is contained in Attachment 1, attached hereto and incorporated by reference into this Agreement. District agrees to perform the Work in accordance with the terms and conditions of this Agreement.
3. **MS4 Compliance.** The City remains responsible for compliance with all of its Municipal Separate Storm Sewer System (“MS4”) requirements. The District assumes no liability regarding any fees, fines, or other costs that may arise from a failure of the City to meet its MS4 requirements.
4. **Consideration.** The City agrees to pay District based upon time and materials for the tasks as referenced in Attachment 1.
5. **Schedule of Performance.** The delivery schedule for the provision of these services is also contained in Attachment 1, attached hereto and incorporated by reference into this Agreement.
6. **Project Site.** The Project site location is provided in Attachment 1.
7. **Project Managers; Notice.** Each party has designated a project manager to be the formal representative for this Agreement. All reports, notices, and other communications required under or relating to this Agreement shall be directed to the appropriate individual. To be effective, any notice required to be given under this Agreement may be given by personal delivery to the address below or may be sent by certified mail, return receipt requested and if sent via certified mail return receipt requested such notice will be deemed delivered three (3) business days after postmark. Notice may also be given by overnight delivery service, effective upon receipt of such delivery.

City of GLADSTONE  
Jim Whynot  
525 Portland Ave  
Gladstone, OR 97027  
(503) 656-7957

Clackamas County Service District No. 1

Mona LaPierre

c/o Water Environment Services

150 Beavercreek Road

Oregon City, OR 97045

(503) 557-2830

8. **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.
9. **Payment.**
  - A. Within forty-five (45) days of conducting a sampling event on behalf of City, District shall submit an itemized invoice to City for reimbursement of services performed during the sampling event, which shall include a description of the project and District contract number, and the allocation of costs.
  - B. City shall pay all invoices within thirty (30) days of the District receiving the invoice.
10. **Termination.**
  - A. The parties may agree to an immediate termination of this Agreement or at a time certain upon mutual written consent.
  - B. Either party may terminate this Agreement effective not less than thirty (30) days from delivery of written notice for any reason. City shall be responsible for any costs of Work done on its behalf prior to the effective date of the termination.
  - C. Either party may terminate this Agreement in the event of a breach by the other party. However, prior to such termination, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the breaching party has not cured the breach within ten (10) days or a longer period as granted in the cure notice, the party seeking compliance may terminate this Agreement.
11. **Funds Available and Authorized.** Both parties certify that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within each party's current appropriation and limitation through fiscal year 2015-2016. Both parties understand and agree that payment of amounts under this Agreement attributable to Work performed after the end of the current fiscal year is contingent on either party receiving appropriations, limitations, or other expenditure authority.
12. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.
13. **Access to Records.** Both parties and their duly authorized representatives shall have access to the documents, papers, and records which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcript.



14. **Compliance with Applicable Law.**
- a. Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Both party's performance under this Agreement is conditioned upon either parties compliance with the provisions of the Oregon Revised Statutes, including but not limited to ORS 279A, B, and C, which are incorporated by relevant reference herein.
  - b. The City is and remains responsible for compliance with its MS4 Permit obligations. The District assumes no liability regarding any fees, fines, or other costs related to meeting those permit obligations by entering into this Agreement.
15. **No Third Party Beneficiary.** The District and City are the only parties to this Agreement and as such, are the only parties entitled to enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
16. **Indemnification.** Within the limits of the Oregon Tort Claims Act (ORS 30.260 to 30.300), each party agrees to indemnify and defend the other and its officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this Agreement, including the cost of defense, attorney fees arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, subcontractors or representatives.
17. **Merger Clause.** This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
18. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
19. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

*[Signature Page Follows]*

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

**City of GLADSTONE**

**Clackamas County Board of County  
Commissioners Acting as the Governing  
Body for Clackamas County Service District  
No. 1 by:**

\_\_\_\_\_  
**[Insert Name],**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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

Approved as to Form:

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

**ATTACHMENT #1**  
**Clackamas County Service District #1 and City of Gladstone**  
**Stormwater Quality Monitoring Project**  
**Statement of Work**

**PURPOSE**

The purpose of this attachment (the “Attachment”) is to define the specific responsibilities of the City of Gladstone (“City”) and Clackamas County Service District No. 1 (“District”). City desires to obtain stormwater quality monitoring and laboratory services from District in order to comply with its Phase I MS4 NPDES permit (“Permit”) monitoring requirements.

**PROJECT DESCRIPTION AND SITE**

The project (“Project”) involves the collection of sample(s) for analyses from outfall monitoring site(s) located in the City of Gladstone as specified in the Comprehensive Clackamas County Stormwater Monitoring Plan dated June, 2013 (“Plan”).

**PROJECT COSTS**

The cost of the Project will be based upon time and materials and established laboratory fees plus an 8% premium. This data will be captured through the Water Environment Services Time Card and Financial Systems. Rates are adjusted annually and effective July 1.

**RESPONSIBILITIES/STATEMENT OF WORK/SCHEDULE OF PERFORMANCE**

Monitoring

**The District Shall:**

1. Collect field and lab samples at the City outfall site for three storm events prior to July 1, 2016. There after three samples from July 1, 2016 and prior to June 30, 2017. District will attempt to collect these samples during the same events when it is collecting its own samples to meet MS4 NPDES permit requirements.
2. An attempt should be made to collect lab samples that are composites representing three individual samples collected throughout the event and separated by a minimum of one hour. The time and date when these samples are collected should also be documented.
3. Analyze the composite samples in the lab for total and dissolved copper, total and dissolved lead, total and dissolved zinc, total hardness, E. Coli, ammonia, nitrate, total phosphorus, ortho-phosphate, total solids, total suspended solids, and total dissolved solids as specified in the Plan.
4. Analyze outfall discharges in the field for specific conductivity, pH, temperature, dissolved oxygen, and depth of flow as specified in the Plan. The time and date when these samples are collected should also be documented.
5. Collect adequate samples such as field blanks and duplicates in order to conduct the required quality assurance and quality control reviews of the data.
6. Provide hard copy and digital copy results of the field and laboratory analyses to City.

**City Shall:**

1. Submit payment to the District for City’s share of the Project cost within thirty (30) days of receipt of invoice from the District.
2. Notify the District if there are changes within the Permit.