



Capt. Malcolm McDonald
Director

CLACKAMAS COUNTY COMMUNITY CORRECTIONS
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October 1, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Subgrant Application, Acceptance, and Agreement between State of Oregon, Dept.
of Corrections and Clackamas County
to Provide Emergency Housing of Indigent, Non-COVID Positive Clients

Purpose/Outcome	To provide emergency housing of indigent, non-COVID positive clients.
Dollar Amount and Fiscal Impact	\$22,066.50
Funding Source	State of Oregon, Department of Corrections
Duration	Funding period January 20, 2020 through January 19, 2022
Previous Board Action/Review	No previous action
Strategic Plan Alignment	Provide supervision, resources, intervention, and treatment services. Ensure Safe, Healthy and Secure Communities
County Counsel Review	This Subgrant Agreement has been reviewed and approved by County Counsel on 9/17/2020; JM
Procurement Review	Was the item processed through Procurement? No This item is a Subgrant Award.
Contact Person	Captain Malcolm McDonald, Director, Community Corrections – 503-655-8717

BACKGROUND: Oregon Department of Corrections (DOC) applied for and was awarded a Coronavirus Emergency Supplemental Funding (CESF) grant from US Department of Justice. The goal of this grant is to provide funding to prevent, prepare for, and respond to the coronavirus. This CESF grant is limited to the housing needs of non-COVID positive adults-in-custody releasing to, or currently on supervision with Community Corrections departments in Oregon.

DOC has now allocated funds and issued subgrant agreements to each Community Corrections department in the state to provide emergency housing for eligible clients supervised in each county. Clackamas County has been allocated \$22,066.50 for this purpose. The Agreement specifies that the funds will be available for eligible costs beginning on January 20, 2020-January 19, 2022.

Given the fact that Community Corrections did not apply for this grant but is now in the position to receive these funds, we would like to follow the federal grant procedures of Clackamas County as much as possible. We have notified the County Administrator of the grant applied for and awarded on our behalf and have received his approval.

RECOMMENDATION: Community Corrections respectfully requests that the Board of County Commissioners approve Subgrant Application and Acceptance on behalf of Clackamas County by Oregon Department of Corrections and Subgrant Agreement #6034 from Oregon Department of Corrections to assist in preventing, preparing for, and responding to the coronavirus by providing housing to non-COVID positive adults on supervision with Community Corrections.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Malcom McDonald", written in a cursive style.

Captain Malcom McDonald
Director, Community Corrections

OREGON DEPARTMENT OF CORRECTIONS
CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING
SUBGRANT AGREEMENT #6034

2575 Center St. NE
Salem, OR 97301

This Subgrant Agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Department of Corrections, hereafter referred to as “DOC,” and **Clackamas County**, hereinafter referred to as “Subgrantee,” and collectively referred to as the “Parties.” This Agreement shall become effective on the date when it is fully executed and approved as required by applicable law.

1. Grant. In accordance with the terms and conditions of this Agreement, DOC shall provide Subgrantee an amount not to exceed **\$22,066.50** (the “Grant Funds”) to assist Subgrantee in implementing the project described in Exhibit A (the “Project”) during the period beginning on the Project Start Date and ending on the Project End Date (the “Project Period”), as those dates are specified in Exhibit A. The Grant Funds may be used by Subgrantee solely for Eligible Costs (as described in Section 4.a) incurred by Subgrantee as outlined in Exhibit A during the Project Period. DOC’s obligation to disburse Grant Funds under this Agreement shall end on the Project End Date. The Grant Funds provided under this Agreement are a subaward of federal funds received by DOC under a Federal award. Additional information on the Federal award and subaward are set forth in Exhibit C.

2. Agreement Documents. This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

- Exhibit A: **Project Description**
- Exhibit B: **Federal Terms and Conditions**
- Exhibit C: **Federal Award and Subaward Information**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit C, Exhibit B, this Agreement without Exhibits; Exhibit A.

3. Reports. Subgrantee shall submit the reports required by this section.

a. Progress Reports. Subgrantee shall submit to DOC a progress report, together with such other Project information as DOC may reasonably request, (collectively, a “Progress Report”) every 6 months during the Project Period. Progress Reports must be received by DOC no later than January 11 and July 11, in each case reporting for the prior calendar 6-month period. Additionally, Subgrantee shall submit to DOC, no later than January 8, an annual Progress Report for the prior year that describes, in a narrative fashion, Subgrantee’s

progress in meeting the Project's objectives and any remedial actions necessary if those objectives have not been met in any respect. Progress Reports must be submitted by email to DOC's Contact identified on the signature page and contain all of the requested data. Subgrantee must receive prior approval from DOC to submit a Progress Report after its due date.

b. Financial Reports. Subgrantee shall submit to DOC a Financial Report each quarter to detail expenditures of Grant Funds during the prior calendar quarter. Financial Reports must be received by DOC no later than October 11, January 11, April 11, and July 11 for the prior calendar quarter; provided, however, that the final Financial Report must be submitted no later than the earlier of 30 days after completion of the Project or 30 days after the Project End Date. Subgrantee must receive prior approval from DOC to submit a Financial Report after its due date.

4. Disbursement and Recovery of Grant Funds.

a. Disbursement Generally. Subject to Section 4.b, DOC shall disburse the Grant Funds in a single installment of \$22,066.50. DOC shall disburse the Grant Funds within 30 days of the execution of this Agreement. The Grant Funds may be used solely for Eligible Costs incurred in carrying out the Project. "Eligible Costs" are the reasonable costs incurred by Subgrantee during the Project Period in implementation of the Project, and that are not excluded by DOC, either by this Agreement or by exclusion as a result of financial review or audit.

b. Conditions Precedent to Disbursement. DOC's obligation to disburse Grant Funds to Subgrantee is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- i.** DOC has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow DOC, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii.** Subgrantee is in compliance with the terms of this Agreement.
- iii.** Subgrantee's representations and warranties set forth in Section 6 are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

5. Recovery of Unexpended Grant Funds. Any Grant Funds disbursed to Subgrantee under this Agreement that remain unexpended ("Unexpended Funds") on the earlier of termination of this Agreement, completion of the Project, or the Project End Date, must be returned to DOC. Subgrantee shall return all Unexpended Funds to DOC within 30 days after the earlier of termination of this Agreement, completion of the Project, or the Project End Date.

6. Representations and Warranties of Subgrantee. Subgrantee represents and warrants to DOC as follows:

a. Organization and Authority. Subgrantee is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Subgrantee has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subgrantee of this Agreement (1) have been duly authorized by all necessary action of Subgrantee and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subgrantee's charter or other governing documents, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subgrantee is a party or by which Subgrantee or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subgrantee of this Agreement.

b. Binding Obligation. This Agreement has been duly executed and delivered by Subgrantee and constitutes a legal, valid and binding obligation of Subgrantee, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. No Solicitation. Subgrantee's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

d. No Debarment. Neither Subgrantee nor its principals is presently debarred, suspended, or voluntarily excluded from any federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Subgrantee agrees to notify DOC immediately if it is debarred, suspended or otherwise excluded by any state or federal agency or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

7. Records Maintenance and Access; Audit.

a. Records, Access to Records and Facilities. Subgrantee shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, state minimum standards for audits of municipal corporations, and in accordance with 2 CFR Part 200, Subpart F.

Subgrantee shall ensure that each of its subgrantees and subrecipients complies with these requirements. DOC, the Secretary of State of the State of Oregon (the "Secretary"), the United States Department of Justice Office of Special Programs, Bureau of Justice Assistance ("USDOJ"), and their duly authorized representatives shall have access to the books, documents, papers and records of Subgrantee that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, DOC, the Secretary, USDOJ and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Subgrantee shall permit authorized representatives of DOC, the Secretary and USDOJ to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Subgrantee as part of the Project, and any transportation services rendered by Subgrantee.

b. Retention of Records. Subgrantee shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Project End Date. If there are unresolved audit questions at the end of the six-year period, Subgrantee shall retain the records until the questions are resolved.

c. Expenditure Records. Subgrantee shall document the expenditure of all funds disbursed by DOC under this Agreement. Subgrantee shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit DOC to verify how the moneys were expended.

d. Audits. If Subgrantee expends \$750,000 or more in Federal funds (from all sources) in its fiscal year, Subgrantee shall have a single organization-wide audit conducted in accordance with the 2 CFR Part 200, Subpart F (Audit Requirements). Copies of all audits must be submitted to DOC within 30 days of completion. If Subgrantee expends less than \$750,000 in its fiscal year in Federal funds, Subgrantee is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section 7.a herein.

e. Audit Costs. Audit costs for audits not required in accordance with 2 CFR Part 200, Subpart F, are unallowable. If Subgrantee did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit are not Eligible Costs and may not be charged to Grant Funds.

8. Subgrantee Procurements.

a. Subgrantee shall make purchases of any housing for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules, as well as the requirements of 2 CFR §§ 200.317-326, as applicable.

b. 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. Justification must be provided to DOC for any non-competitive or sole-source procurement. Justification should include a description of the housing procured, an explanation of why it was necessary to procure noncompetitively, time constraints and any other pertinent information. All sole source procurements in excess of \$100,000 must receive prior written approval from DOC in addition to any other approvals required by law applicable to Subgrantee. Intergovernmental agreements between units of government are excluded from this requirement to obtain DOC approval of sole source procurements.

c. The Subgrantee shall be alert to organizational conflicts of interest or non-competitive practices among vendors that may restrict or eliminate competition or otherwise restrain trade. A vendor that develops or drafts specifications, requirements, statements of work, or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award in such procurement. A request for a waiver of this restriction must be submitted to and approved by DOC in advance and in writing.

9. **Default.** Subgrantee shall be in default under this Agreement upon the occurrence of any of the following events:

a. Subgrantee 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 Subgrantee herein or in any documents or reports relied upon by DOC to monitor implementation of the Project, the use of the Grant Funds or the performance by Subgrantee is untrue in any material respect when made.

10. **Remedies upon Default.** If Subgrantee's default is not cured within 30 calendar days of written notice thereof to Subgrantee from DOC or such longer period as DOC may authorize in its sole discretion, DOC may pursue any remedies available under this Agreement, at law or in equity. Such remedies include, but are not limited to, termination of this Agreement as provided in Section 11.a.ii, suspension of further disbursements of Grant Funds, recovery of Grant Funds, and declaration of ineligibility for the receipt of future awards from DOC.

11. **Termination**

a. **Termination by DOC.** DOC may terminate this Agreement upon thirty (30) days advance written notice of termination to Subgrantee. In addition, DOC may terminate this Agreement effective upon delivery of written notice of termination to Subgrantee, or at such later date as may be established by DOC in such written notice, if:

i. Subgrantee fails to implement the Project during the Project Period or commencement or continuation of the Project by Subgrantee is, for any reason, rendered improbable, impossible, or illegal; or

- ii. Subgrantee is in default under this Agreement and has failed to cure the default within the time period specified in Section 10; or
- iii. Subgrantee takes an action without the approval of DOC that, under the provisions of this Agreement, requires the approval of DOC; or
- iv. DOC fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow DOC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement; or
- v. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
- vi. The Project would not produce results commensurate with the further expenditure of funds.

b. Termination by Subgrantee. Subgrantee may terminate this Agreement effective upon delivery of written notice of termination to DOC, or at such later date as may be established by Subgrantee in such written notice, if:

- i. After conferring with DOC, Subgrantee has determined that the requisite local funding to continue the Project is unavailable to Subgrantee or Subgrantee is unable to continue implementation of the Project as a result of circumstances not reasonably anticipated by Subgrantee at the time it executed this Agreement and that are beyond Subgrantee's reasonable control; or
- ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.

c. Effect of Termination. Upon termination of this Agreement, DOC may end all further disbursements of Grant Funds; provided, however, that if this Agreement is terminated under Sections 11.a.iv, 11.a.v, 11.a.vi, or 11.b, DOC will disburse Grant Funds to cover Eligible Costs incurred by Subgrantee prior to termination that DOC would otherwise be required to reimburse under the terms and conditions of this Agreement had the Agreement not been terminated. Termination of this Agreement shall not affect Subgrantee's obligations under this Agreement or DOC's right to enforce this Agreement against Subgrantee in accordance with its terms, with respect to Grant Funds actually received by Subgrantee or with respect to portions of the Project actually implemented. Specifically, but without limiting the generality of the preceding sentence, Sections 7 and 12 shall survive termination of this Agreement.

12. GENERAL PROVISIONS

a. Contribution. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim")

against DOC or Subgrantee relating to this Agreement or the Project and with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's contribution obligation with respect to the Third Party Claim.

With respect to a Third Party Claim for which DOC is jointly liable with Subgrantee (or would be if joined in the Third Party Claim), DOC 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 Subgrantee in such proportion as is appropriate to reflect the relative fault of the DOC on the one hand and of the Subgrantee 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 DOC on the one hand and of Subgrantee 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. DOC's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if DOC had sole liability in the proceeding.

With respect to a Third Party Claim for which Subgrantee is jointly liable with DOC (or would be if joined in the Third Party Claim), Subgrantee 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 DOC in such proportion as is appropriate to reflect the relative fault of Subgrantee on the one hand and of DOC 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 Subgrantee on the one hand and of DOC 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. Subgrantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

b. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

c. Amendments. This Agreement may be amended only by a written instrument signed by both Parties and approved as required by applicable law.

d. Duplicate Payment. Subgrantee is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for costs reimbursed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.

e. No Third Party Beneficiaries. DOC and Subgrantee are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Subgrantee acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Subgrantee or any other person pertaining to any matter resulting from this Agreement.

f. Notices. Except as otherwise expressly provided in this Agreement, any notices to be given by a Party to the other Party hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same by registered or certified mail, postage prepaid, to Subgrantee Contact or DOC Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 12.f. Any notice personally delivered shall be deemed to be given when actually delivered. Any notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against DOC, such facsimile transmission must be confirmed by telephone notice to DOC Contact. Any notice by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any notice by registered or certified mail shall be deemed to be given three (3) days after mailing. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed notices under this Section unless receipt by the other Party is expressly acknowledged in writing by the receiving party.

g. Work Product. To the extent it has the necessary rights, Subgrantee hereby grants to DOC a non-exclusive, irrevocable, perpetual, royalty-free, license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display for governmental purposes, all documents, reports and works of authorship created, produced or obtained as part of or in connection with the Project ("Work Product"). Subgrantee shall deliver copies of Work Product to DOC upon request. In addition, if applicable law requires that DOC or Subgrantee grant to the United States a license to any intellectual property created, produced or obtained as part of or in connection with the Project, or if applicable law requires that the DOC or the United States own such intellectual property, then Subgrantee shall execute such further documents and instruments as DOC may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or DOC.

h. Governing Law, Consent to Jurisdiction.

i. 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.

ii. Any claim, action, suit or proceeding (collectively, "Claim") between DOC (and/or any other agency or department of the State of Oregon) and Subgrantee that arises from or relates to this Agreement must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon (unless Oregon law requires that it be brought and conducted in another Oregon county). Subgrantee hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such form is an inconvenient forum.

iii. Notwithstanding Section 12.h.ii above, if a Claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 12.h.iii applies to a Claim brought against DOC or any other agency or department of the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 12.h.iii is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

i. **Compliance with Law.** Subgrantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) and the federal laws, rules and regulations described in Exhibit B, as applicable. Without limiting the generality of the foregoing, Subgrantee expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

j. **Insurance; Workers' Compensation.** All employers, including Subgrantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subgrantee shall ensure that each of its subgrantees and subrecipients complies with these requirements.

k. **Independent Contractor.** Subgrantee shall implement the Project as an independent contractor and not as an agent or employee of DOC. Subgrantee has no right or authority to incur or create any obligation for or legally bind DOC in any way. DOC cannot and will not control the means or manner by which Subgrantee implements the Project, except as specifically set forth in this Agreement. Subgrantee is responsible for determining the

appropriate means and manner of implementing the Project. Subgrantee acknowledges and agrees that Subgrantee is not an “officer”, “employee”, or “agent” of DOC, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

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

m. Counterparts. This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

n. Integration and Waiver. This Agreement, including all Exhibits, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision.

The signatures of the parties follow on the next page.

Subgrantee, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

Approved by Subgrantee – Clackamas County Board of Commissioners

Signature of Subgrantee

Date

Name/Title

Approved by Department of Corrections

Eric McDowell, Contracts Officer

Date

Approved for Legal Sufficiency

Approved for Legal Sufficiency by AAG Sam Zeigler by email dated August 28, 2020

DOC Contact
Denise Sitler
2575 Center Street NE
Salem, OR 97301
denise.sitler@doc.state.or.us
(503) 945-9051

Subgrantee Contact
Malcolm McDonald
1024 Main Street
Oregon City, 97045
malcolmmcd@co.clacamas.or.us
(503) 655-8603

EXHIBIT A

Project Description

The goal of the Coronavirus Emergency Supplemental Funding grant is to provide funding to assist eligible states, local units of government, and tribes in preventing, preparing for, and responding to the coronavirus. The CESF Program is authorized by Division B of H.R. 748, Pub. L. No. 116-136 (Emergency Appropriations for Coronavirus Health Response and Agency Operations); 28 U.S.C. 530C. Allowable projects and purposes under this Agreement are limited to the housing needs of non-COVID positive clients under the Subgrantee's supervision where those needs are associated with the preparation for, response to, and prevention of the spread of COVID-19.

Subgrantee will use Grant Funds only for client housing.

Project Start Date: January 20, 2020
GRANT #: CESF-20-25
GRANTEE PROGRAM CONTACT: Malcolm
McDonald
EMAIL: malcolmmcd@clackamas.us
TELEPHONE: 503-655-8717

Project End Date: January 19, 2022
CFDA #: 16.034
GRANTEE FISCAL CONTACT: Nora
Jones
EMAIL: norajon@clackamas.us
TELEPHONE: office 503-655-8780; cell
503-348-0728

EXHIBIT B

Federal Terms and Conditions

- I. Debarment, Suspension, Ineligibility and Voluntary Exclusion. The Subgrantee certifies by accepting grant funds that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency. (This certification is required by regulations published May 26, 1988, implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 69 and 28 CFR Part 67.)
- II. No Supplanting. The Subgrantee certifies that Federal funds will not be used to supplant State or local funds, but will be used to increase the amount of funds that, in the absence of Federal aid, would be made available for law enforcement activities.
- III. Compliance with Applicable Law. The Subgrantee shall comply with all applicable laws, regulations, and guidelines as written or as amended, of the State of Oregon, the Federal Government and DOC in the performance of this Agreement. Without limiting the generality of the foregoing, Subgrantee shall comply with all laws, rules and guidelines set forth in the most recent version of the *Grant Management Handbook* published by the Oregon Criminal Justice Commission, including but not limited to:
 - A. The provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 38, Equal Treatment Regulations; Part 42, Non-Discrimination/Equal Employment Opportunity Policies and Procedures; Part 46, Protection of Human Subjects; Part 54, Title IX Regulations; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures, and Federal laws or regulations applicable to Federal assistance programs.
 - B. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646).
 - C. Section 102(a) of the Flood Disaster Protection Act of 1973, P.L. 93-234, 87 Stat.97, approved December 31, 1976.
 - D. Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569a-1 et seq.).
 - E. National Environmental Policy Act of 1969, 42 USC 4321 et seq.
 - F. Flood Disaster Protection Act of 1973, 42 USC 4001 et seq.
 - G. Clean Air Act, 42 USC 7401 et seq.
 - H. Clean Water Act, 33 USC 1368 et seq.
 - I. Federal Water Pollution Control Act of 1948, as amended, 33 USC 1251 et seq.
 - J. Safe Drinking Water Act of 1974, 42 USC 300f et seq.
 - K. Endangered Species Act of 1973, 16 USC 1531 et seq.
 - L. Wild and Scenic Rivers Act of 1968, as amended, 16 USC 1271 et seq.

- M. Historical and Archaeological Data Preservation Act of 1960, as amended, 16 USC 469 et seq.
- N. Coastal Zone Management Act of 1972, 16 USC 1451 et seq.
- O. Coastal Barrier Resources Act of 1982, 16 USC 3501 et seq.
- P. Indian Self-Determination Act, 25 USC 450f.
- Q. Hatch Political Activity Act of 1940, as amended, 5 USC 1501 et seq.
- R. Animal Welfare Act of 1970, 7 USC 2131 et seq.
- S. Demonstration Cities and Metropolitan Development Act of 1966, 42 USC 3301 et seq.
- T. Federal Fair Labor Standards Act of 1938 (as appropriate), as amended, 29 USC 201 et seq.
- U. 28 CFR Part 46 and all USDOJ Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

IV. Standard Assurances and Certifications Regarding Lobbying.

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, 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 any employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subgrantee agrees to complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.
- C. The DOC will 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 subgrantees will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

V. Certification of Non-discrimination.

The Grantee, and all its contractors and subcontractors, certifies that no person shall

be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any activity funded under this Agreement on the basis of race, color, age, religion, national origin, disability, or gender. Subgrantee shall comply with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d); the Victims of Crime Act (42 U.S.C. 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. 5672(b)); Title VI the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. 794); the Americans with Disabilities Act of 1990 (42 U.S.C. 12131-34); the Education Amendments of 1972 (20 U.S.C. 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. 6101-07); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42, Subparts C, D, E, G, and I, and pt. 54 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and neighborhood organizations); and 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations).

In accordance with Federal civil rights laws, the Subgrantee shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

In the event that a Federal or State court or administrative agency, such as BOLI, makes a finding of discrimination after a due process hearing on the grounds of race, color, age, religion, national origin, disability or gender against the Subgrantee or any of its contractors or subcontractors, the Subgrantee or any of its contractors or subcontractors will forward a copy of the finding to DOC. DOC will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

The addresses for DOC and OCR are as follows:

Oregon Department of Corrections
2575 Center St NE
Salem, Oregon 97301

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531

VI. Systems Requirements.

- A. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, the Office of Justice Programs (OJP) requires the Subgrantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Subgrantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: http://www.it.ojp.gov.gsp_grantcondition. Subgrantee shall document planned approaches to information sharing and describe compliance to the GSP and

appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

- B. Any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, Subgrantee may be fined as per 42 U.S.C 3789g(c)-(d). Subgrantee may not satisfy such a fine with federal funds.
- C. Subgrantee understands and agrees that – (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography, and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.
- D. To avoid duplicating existing networks or information technology systems in any initiatives funded by OJP, Bureau of Justice Assistance (BJA) for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the Subgrantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed information technology system.

VII. Services to Limited-English-Proficient (LEP) Persons.

National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, the DOC and grantees are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including interpretation and translation services, where necessary. Grantees are encouraged to consider the need for language services for LEP persons served or encountered both in developing their proposals and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. The U.S. Department of Justice has issued guidance for grantees to assist them in complying with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov.

- VIII. Equal Employment Opportunity Plan (EEOP). The Subgrantee will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs (OCR) and the DJCS, if it has received a single award of \$500,000 or more. If the Subgrantee receives \$25,000 or more and has 50 or more employees, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. For public Subgrantee agencies receiving less than \$25,000, or public Subgrantee agencies with fewer than 50 employees, regardless of the amount of the award, the

Subgrantee will provide an EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. EEOP Certification Forms are available at: <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>:

If required to formulate an EEOP, the Subgrantee must maintain a current copy on file which meets the applicable requirements. **The Subgrantee must complete the EEOP certification and submit the Certification or the EEOP document (as applicable) within 60 days of contract execution.**

IX. National Environmental Policy Act (NEPA); Special Condition for U.S. Department of Justice Grant Programs.

A. Prior to obligating grant funds, Subgrantee agrees to first determine if any of the following activities will be related to the use of the grant funds. Subgrantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the Subgrantee, a contractor, subcontractor or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:

1. new construction;
2. minor renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year floodplain;
3. a renovation, lease, or any other proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; and
4. implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or educational environments.

B. Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the Grantee's or its contractors' or subcontractors' existing programs or activities that will be funded by these grant funds, the Grantee, upon specific request from the Bureau of Justice Assistance, agrees to cooperate with the Bureau of Justice Assistance in any preparation by the Bureau of Justice Assistance of a national or program environmental assessment of that funded program or activity.

X.. Certification Regarding Drug Free Workplace Requirements. Subgrantee certifies that it will provide a drug-free workplace by:

A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in

the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

- B. Establishing a drug-free awareness program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. The Grantee's policy of maintaining a drug-free workplace;
 - 3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - C. Requiring that each employee engaged in the performance of the grant be given a copy of the employer's statement required by paragraph (1).
 - D. Notifying the employee that, as a condition of employment under the award, the employee will:
 - 1. Abide by the terms of the statement; and
 - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction.
 - E. Notifying the Subgrantee within ten days after receiving notice from an employee or otherwise receiving actual notice of such conviction.
 - F. Taking one of the following actions, within 30 days of receiving notice, with respect to any employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.
 - G. Making a good faith effort to continue to maintain a drug-free workplace.
- XI. No Text Messaging While Driving. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," Subgrantee is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this Agreement and to establish workplace safety policies and conduct education, awareness and other outreach to decrease crashes caused by distracted drivers.

EXHIBIT C

Federal Award and Subaward Information Information required by 2 CFR § 200.331(a)(1)*

Federal Award Identification:

1. Subrecipient name (which must match registered name in DUNS): Clackamas County
2. Subrecipient's unique entity identifier (e.g. DUNS number): 096992656
3. Federal Award Identification Number (FAIN): 2020-VD-BX-0540
4. Federal Award Date: May 14, 2020
5. Sub-award Period of Performance Start and End Date: From January 20, 2020 to January 19, 2022
6. Total Amount of Federal Funds Obligated by this Agreement: \$22,066.50
7. Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement**: \$22,066.50
8. Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$22,066.50
9. Federal award project description: CESF for housing non-COVID positive clients
10. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity:
 - (a) Name of Federal awarding agency: Bureau of Justice Assistance
 - (b) Name of pass-through entity: State of Oregon acting by and through its Department of Corrections
 - (c) Contact information for awarding official of the pass-through entity: Denise Sitler 2575 Center Street NE, Salem, OR 97301, denise.sitler@doc.state.or.us (503) 945-9051
11. CFDA Number and Name: 16.034 Coronavirus Emergency Supplemental Funding Program
Amount: \$22,066.50
12. Is Award Research and Development? Yes No
13. Indirect cost rate for the Federal award: 10 %

*For the purposes of this Exhibit, the term "Subrecipient" refers to Grantee, and the term "pass-through entity" refers to DOC.

**The Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current fiscal year.

**COUNTY COUNSEL
DOCUMENT REVIEW - TRANSMITTAL FORM**

DATE: 09/15/2020

TO COUNTY COUNSEL ATTORNEY: Jeff Munns

FROM: Nora Jones

EXTENSION: 8780 **DEPARTMENT/DIVISION:** Community Corrections

BILL TO 219 1320 06240 431420

TYPE OF DOCUMENTS: Subgrant Agreement #6034

NAME OF DOCUMENTS: Corona Virus Emergency Supplemental Funding (CESF) Grant Agreement

REQUESTED RETURN DATE: 09/21/2020

Requestor Comments: This is a subgrant from DOC to provide emergency housing for non-COVID positive clients.

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APPROVED AS TO FORM:

County Counsel: _____


Date: 9/16/2020 _____

Counsel Comments:

