

AGENDA

Thursday, September 20, 2018 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2018-92

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. HOUSING AUTHORITY CONSENT AGENDA

1. Approval to Apply to the US Department of Housing and Urban Development Set-Aside Funding for 30 Veteran Affairs Supportive Housing Vouchers
2. Approval to Apply for the US Department of Housing and Urban Development's Family Self Sufficiency Coordinator Grant Renewal Funding
3. In the Matter of Approval to Execute the General Depository Agreement, Housing and Urban Development Form 51999
4. In the Matter of Writing off Uncollectible Accounts for the First Quarter of FY 2019
5. Adoption of Revisions to the Housing Authority of Clackamas County's Bylaws

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

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

1. Board Order No. _____ for Boundary Change Proposal CL 18-003, Annexation to Clackamas River Water (Nate Boderman, County Counsel, Ken Martin, Boundary Change Consultant)
2. Board Order No. _____ for Boundary Change Proposal CL 18-007, Annexation to Clackamas County Service District No. 1 (Nate Boderman, County Counsel, Ken Martin, Boundary Change Consultant)
3. Board Order No. _____ Accepting a Transfer of Jurisdiction from Clackamas County to the City of Canby for a Portion of South Fir Street (Rick Maxwell, Department of Transportation & Development)

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

A. Health, Housing & Human Services

1. Approval of a Service Agreement with Genoa (Beavercreek) Partnering with Clackamas County Health Centers Division in Participation with 340B Pharmacy Services Agreement – *Health Centers*
2. Approval of a Service Agreement with Genoa (Hilltop) Partnering with Clackamas County Health Centers Division in Participation with 340B Pharmacy Services Agreement – *Health Centers*
3. Approval of an Intergovernmental Agreement with the Oregon Trail School District No. 46 for the Sandy School Based Health Center – *Health Centers*
4. Approval of a Professional Services Agreement for Clackamas County Health Centers Division with CompHealth Locum Tenens for Temporary Physician Staff – *Health Centers*
5. Approval of a Service Agreement with Kroger Co., Partnering with Clackamas County Health Centers Division in Participation with 340B Pharmacy Services Agreement – *Health Centers*
6. Approval of Local Grant Agreement with Clackamas Women’s Services for Evidence-Based Parenting Education Classes – *Children, Youth & Families*
7. Approval of Local Grant Agreement with Clackamas County Children’s Commission for Evidence-Based Parenting Education Classes – *Children, Youth & Families*
8. Approval of Local Grant Agreement with Todos Juntos for Evidence-Based Parenting Education Classes – *Children, Youth & Families*
9. Approval of Local Grant Agreement with Northwest Family Services for Evidence-Based Parenting Education Classes – *Children, Youth & Families*
10. Approval of a Professional Services Agreement with Craig R. Warden, to Provide Services as the Associate Emergency Medical Services (EMS) Medical Director – *Public Health*
11. Approval of Amendment No. 2 of the Grant Agreement with Oregon Health & Science University for the Oregon Care Coordination Program (CaCoon) – *Public Health*
12. Approval of Amendment No.2 of the Intergovernmental Agreement with Multnomah County for the reduction of Opioid Overdose and Death Program – *Public Health*
13. Approval of the Intergovernmental Agreement with Portland State University for Trauma Informed Care Training and Consultation – *Behavior Health*
14. Approval of US Department of Housing & Urban Development (HUD) Funding for Section 108 Loan Pool – *Housing & Community Development*
15. Approval of Agreement No.18569 with Ride Connection, Inc. to Provide Funding for Rides Provided by Volunteer Drivers under the Ride Together Program – *Social Services*

16. Approval of Agreement No.18549 with Ride Connection, Inc. to Provide Funding for Vehicle Maintenance of Ride Connection owned Vehicles Operated by Urban Community-based Clackamas County Transportation Consortium members – *Social Services*
17. Approval of Agreement No.18556 with Ride Connection, Inc. to Provide Funding for Vehicle Maintenance of Ride Connection Owned Vehicles Operated by Rural Community-Based Clackamas County Transportation Consortium Members – *Social Services*
18. Approval of Agreement No.18568 with Ride Connection, Inc. to Provide Funding for Rides Provided by Volunteer Drivers under the Vets Drive Vets Program – *Social Services*
19. Approval of Agreement No.18573 with Ride Connection, Inc. to Provide Funding for Specialized Service Rides Provided by Members of the Clackamas County Transportation Consortium – *Social Services*
20. Approval of Agreement Nos.18574 and 18565 with Ride Connection, Inc. to Provide Funding for Rides Provided by Members of the Clackamas County Transportation Consortium – *Social Services*
21. Approval of Agreement Nos. 18575, 18576 and 18577 with Ride Connection, Inc. to Provide Funding for Rides Provided by Social Services, Transportation Reaching People – *Social Services*

B. Department of Transportation & Development

1. Approval of an Intergovernmental Agreement with Metro for Funding for the Oak Grove/Lake Oswego Pedestrian and Bicycle Bridge Feasibility Study
2. Approval of 2040 Planning and Development Grant Intergovernmental Agreement with Metro for the Clackamas County Park Avenue Development and Design Standards Contract No. 935012
3. Acceptance of Transportation and Growth Management (TGM) Grant Award for a Clackamas County Transit Development Plan
4. Board Order No. _____ Adopting the Vacation of Holman Road
5. Approval of an Intergovernmental Agreement with the City of Canby Regarding the Transfer of Road Authority of a Portion of South Fir Street
6. Approval of an Intergovernmental Agreement with the City of Canby Regarding the Transfer of a Portion of South Fir Street

C. Tourism & Cultural Affairs

1. Approving the Conveyance of Development Agency Assets to Clackamas County, by and through the Department of Tourism and Cultural Affairs Related to the Mt. Hood Cultural Center and Museum

D. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Request by the Clackamas County Sheriff's Office to Enter into an Intergovernmental Agreement with State of Oregon for Access to the Oregon State Police Automated Biometric Identification System - *CCSO*

E. Administration

1. Board Order No. _____ Appointing an Interim Clackamas County Planning Director

F. Community Corrections

1. Approval of a Contract Amendment No. 3 and Renewal No. 2 with David J. Schuessler LPC PC dba Innovative Counseling Enterprises for Sex Offender Treatment Services - Procurement

G. Business & Community Services

1. Approval of a Grant and Cooperative Agreement L18AC00108 with the Department of Interior Bureau of Land Management Oregon State Office for the Dump Stoppers Program
2. Approval of a Contract with CXT, Inc. for the Purchase of a Precast Concrete Restroom at Barton Park – Procurement

H. Technology Services

1. Approval of Amendment No. 1 for a Service Level Agreement between Clackamas Broadband eXchange and the City of Sandy

V. DEVELOPMENT AGENCY

1. Approving the Conveyance of Development Agency Assets to Clackamas County, by and through the Department of Tourism and Cultural Affairs, Related to the Mt. Hood Cultural Center and Museum
2. Approval of Amendment No. 1 to the Storm-Line Easement for Clackamas Corporate Park

VI. WATER ENVIRONMENT SERVICES

1. Approval of Acquisition of an Easement from the City of Gladstone in Support of the 82nd Drive Bridge Rehabilitation Project

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

September 20, 2018

Housing Authority Board of Commissioners
 Clackamas County

Members of the Board:

Approval to apply to the U.S. Department of Housing and Urban Development Set-Aside
Funding for 30 Veteran Affairs Supportive Housing Vouchers

Purpose/Outcomes	Approval to apply for 30 Veteran Affairs Supportive Housing (VASH) Vouchers.
Dollar Amount and Fiscal Impact	Approximately \$218,160/year
Funding Source	HUD Funds; No County General Funds used
Duration	Annually Renewable Funding
Previous Board Action	Received approval to apply for 25 VASH Vouchers at August 18, 2016 HACC Board meeting
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Sustainable and affordable housing 2. Ensure safe, healthy and secure communities
Contact Person	Chuck Robbins - Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

BACKGROUND:

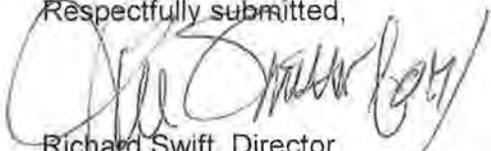
The Housing Authority of Clackamas County (HACC), a Division of Health, Housing and Human Services Department, requests approval to apply for an additional award of 30 Veteran Administration Supportive Housing (VASH) Vouchers.

The Veteran Administration (VA) and the Department of Housing and Urban Development provide funding to pay rental assistance for Veterans and this funding includes case management by the VA for each of the Veteran families. HACC currently has 76 VASH vouchers. HACC would like to expand its Veteran housing assistance and offer 30 additional vouchers to homeless Veterans, for a total of 106 VASH Vouchers. The vouchers are valued at approximately \$781 per month for a total estimated value of \$218,160 per year. The grant would assist 30 new homeless and disabled veterans with finding and sustaining permanent supportive housing.

RECOMMENDATION:

Staff recommends the Board's approval to apply for 30 additional VASH vouchers. Additionally, staff recommends the HACC Board authorize Chuck Robbins, HACC Executive Director, to sign on behalf of the Housing Authority of Clackamas County, all documents related to the VASH vouchers.

Respectfully submitted,



Richard Swift, Director
 Health, Housing & Human Services

September 20, 2018

Housing Authority Board of Commissioners
 Clackamas County

Members of the Board:

Approval to apply for the U.S. Department of Housing and Urban Development's
Family Self Sufficiency Coordinator Grant Renewal Funding

Purpose/Outcomes	Approval to apply for Family Self Sufficiency renewal funding through the U.S. Department of Housing and Urban Development (HUD).
Dollar Amount and Fiscal Impact	\$99,286/year
Funding Source	HUD Funds; No County General Funds used
Duration	1/1/2019 – 12/31/2019 (Annually Renewable)
Previous Board Action	None
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Sustainable and affordable housing 2. Increased self-sufficiency for our clients 3. Ensure safe, healthy and secure communities
Contact Person	Chuck Robbins - Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a Division of Health, Housing and Human Services Department, requests approval to apply for the renewal of its Family Self Sufficiency (FSS) Program Coordinator grant. The FSS renewal will provide twelve months of funding for 1.5 coordinators' salary and benefits. The renewal amount is \$99,286.

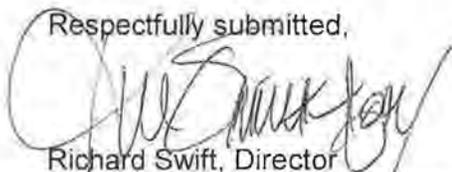
HACC has utilized this funding since 1999 to maintain its FSS Coordinator positions. The purpose of the FSS program is to help Voucher families make progress toward self-sufficiency and establish escrow accounts for money management, homeownership, and education in the future. The FSS coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency. Without this Grant, HACC could not offer the services of an FSS Coordinator.

The FSS Administrative Fee funding renewal grant does not require matching funds. No County General Funds are involved.

RECOMMENDATION:

Staff recommends the Board's approval to apply for the FSS Renewal Grant. Additionally, staff recommends the HACC Board authorize Chuck Robbins, HACC Executive Director, to sign on behalf of the Housing Authority of Clackamas County, all documents related to the FSS Grant renewal.

Respectfully submitted,



Richard Swift, Director
 Health, Housing & Human Services

September 20, 2018

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

In the Matter of approval to execute the General Depository Agreement, HUD Form 51999

Purpose/Outcomes	Approval to execute HUD Form 51999, General Depository Agreement for the FSS Escrow Account
Dollar Amount and Fiscal Impact	\$0
Funding Source	U.S. Department of Housing and Urban Development No County General Funds are involved.
Duration	September 20, 2018 – until terminated
Previous Board Action	None
Strategic Plan Alignment	1. Efficient and effective services 2. Build public trust through good government
Contact Person	Chuck Robbins, Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

BACKGROUND:

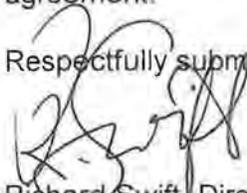
The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval to execute a General Depository Agreement for the Family Self-Sufficiency (FSS) Escrow Account. This is a U.S. Department of Housing & Urban Development (HUD) required agreement between the Housing Authority of Clackamas County and our bank, Wells Fargo.

HACC's Annual Contributions Contract (ACC) with HUD requires HACC to deposit all program funds under an ACC in accordance with the terms of a General Depository Agreement, HUD Form 51999. The General Depository Agreement is a HUD form that is executed between HACC and Wells Fargo. The General Depository Agreement requires Wells Fargo to continuously and fully secure all deposits regardless of type that are in excess of federally insured limits, as well as set limits on the type of investments that can be made with ACC funds.

RECOMMENDATION:

We recommend the Housing Authority Board Chair sign the document necessary to execute the agreement.

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services

Healthy Families. Strong Communities.

**General Depository Agreement
HUD-51999 (GDA)**

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0075
(exp. 01/31/2021)

Public reporting burden for this collection of information is estimated to average 1 hour per response. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. HUD will use this information to ensure PHAs use all Program Receipts received from HUD or otherwise associated with public housing funds for purposes of public housing, by requiring such financial assistance to be deposited into interest-bearing accounts at certain financial institutions. The information requested does not lend itself to confidentiality.

This Agreement, entered into this 20 day of September, 2018 by and between

Housing Authority of Clackamas County

(herein called the "HA"), a duly organized and existing public body corporate and politic of the
County of Clackamas of State of Oregon

and Wells Fargo Bank N.A. (herein called the "Depository"), located at 333 Market Street, 15th Floor, MAC A0109-150, San Francisco, CA 94105, ATTN: Public Funds Collateral Management Group; Email: publicfundscollateral@wellsfargo.com; Toll free 1-877-479-6603; Fax: 1-866-686-5441.

Witnesseth:

Whereas, the Department of Housing and Urban Development (herein called "HUD") has entered into one or more Annual Contributions Contracts (herein called the "ACC" with the HA for the purpose of providing financial assistance to develop and operate lower income housing projects, as authorized by the United States Housing Act of 1937, as amended (42 USC 1437, et seq.); and

Whereas, under the terms of the ACC the HA is required to select as depositories of its funds, financial institutions whose deposits or accounts are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF) as long as this Agreement is in force and effect.

Now Therefore, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. The deposits and accounts of the Depository shall continue to be insured by the FDIC Corporation or NCUSIF.
2. All monies deposited by the HA with the Depository shall be credited to the HA in a separate interest-bearing deposit or interest-bearing accounts, designated 1739242152 FSS Escrow Account "Accounts" (herein the "Accounts"). Any portion of HA Funds not insured by a Federal insurance organization shall be fully (100%) and continuously collateralized with specific and identifiable U.S. Government or Agency securities prescribed by HUD in a notice. Collateralization is required on a daily basis at the end of the business day. Such securities shall be pledged and set aside in accordance with applicable law or Federal regulations. The HA shall have possession of the securities (or the HA will take possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of the HA as a bailee (evidenced by safe keeping receipt and a written bailment for hire contract) and will be maintained for the full term of deposit. The Depository may substitute other securities as collateral to equal or increase the value. If the HA is an agency of an Indian tribe, the collateral shall be in United States bonds and otherwise as may be prescribed for public funds by the United States Secretary of the Treasury.
3. Except as stated in Paragraph 5, the Depository shall honor any (a) check or other order to pay from the Accounts, or (b) directive to purchase investment securities with monies from the Accounts or to sell securities, if such order or directive is in writing and signed on behalf of the HA by an officer or member designated by resolution of the Board of Directors of the HA to have such authority. To assist the Depository in its obligation, the HA shall furnish the Depository with a certified copy of the resolution.
4. Any securities received from the HA or purchased by the Depository with monies from the Accounts shall be considered to be a part of the Accounts and shall be held by the Depository in safe-keeping for the HA until sold. Interest on such securities and the proceeds from the sale thereof shall be deposited in the Account upon receipt
5. If the Depository receives written notice from HUD that no withdrawals by the HA from the Accounts are to be permitted, the Depository shall not honor any check or other order to pay from the Accounts or directive to purchase or sell securities, or permit any withdrawals by the HA from said Accounts until the Depository is authorized to do so by written notice from HUD.
6. The Depository is not obligated to be familiar, and shall not be charged, with knowledge of the provisions of the ACC, and shall be under no duty to investigate or determine whether any action taken by either the HA or HUD in respect of the Accounts are consistent with or are authorized by the ACC or whether either HA or HUD is in default under the provisions of the ACC. The Depository shall be fully justified in accepting and acting on, without investigation, any certificate or notice furnished to it pursuant to the provisions of this Agreement and which the Depository shall in good faith believe to have been duly authorized and executed on behalf of the party in whose name the same purports to have been made or executed
7. The rights and duties of the Depository under this Agreement shall not be transferred or assigned by the Depository without the prior written approval of the HA and HUD. This Agreement may be terminated by either party hereto upon thirty days' written notice to the other party, and HUD. The rights and duties of the Depository hereunder shall not be transferred or assigned nor shall this Agreement be terminated during any period in which the Depository is required to refuse to permit withdrawals from the Accounts as provided in Paragraph 5.

8. HUD is intended to be a third-party beneficiary of this Agreement and may sue to enforce its provisions and to recover damages for failure to carry out its terms.

9. The Depository shall provide the HA with remote, electronic access to the Accounts for the purpose of monitoring the crediting or depositing of any monies in the Accounts.

10. The provisions of this Agreement may not be modified by either Party without the prior written approval of HUD

11. ~~Strike this paragraph if inapplicable:~~ Previous General Depository or Savings Depository Agreements, if any, entered into between the Depository and the HA are hereby terminated and all monies and securities of the HA on deposit with or held by the Depositories pursuant to the terms of said Agreement shall continue to be held for account of the HA pursuant to and in accordance with the provisions of this Agreement.

12. ~~Strike this paragraph if paragraph 2 applies:~~ For use only in certain States that have statutes that prohibit HAs from implementing paragraph 2.

At no time shall the HA Funds in the Accounts be permitted to exceed the amount insured by Federal deposit insurance (herein the "Insured Amount"). At any such time as the amount of funds in the Accounts reach the Insured Amount, whether by the accrual of interest or otherwise, the Depository shall promptly, as directed by the HA, and in an amount sufficient to limit the funds in the Accounts to the Insured Amount, either: (a) remit payment to the HA or, (b) on behalf of the HA, purchase securities approved for investment by the HA. Such securities shall not be considered to be a part of the Account pursuant to Paragraph 4 hereof but shall be held by the Depository as custodian or trustee for the HA in a separate account established for that purpose by the Depository (herein the "Securities Account"). The Securities Account shall be designated as _____, Income or other proceeds from securities held in the Securities Account shall, as directed by the HA, upon receipt, be paid to or on behalf of the HA; provided, however, that such proceeds shall, to the extent consistent otherwise with the provisions of this Paragraph, be deposited in the Accounts. If the Depository receives written notice from HUD pursuant to Paragraph 5 hereof that no withdrawals by the HA from the Accounts are to be permitted, the Depository shall not honor any directive from the HA to sell securities, or permit any withdraws by the HA, from the Securities Account until the Depository is authorized to do so by written notice from HUD. During the pendency of such restrictions on the Accounts and the Securities Account, the Depository, except as directed in writing by HUD, shall not remit any payment to the HA for the purpose of limiting the amount of funds in the Account to the Insured Amount but shall instead purchase securities approved for investment by the HA and hold such securities in the Securities Account.

13. Notice required under the terms and conditions of this agreement shall be deemed to have been given when it made by:

Executive Director _____, on behalf of Housing Authority of Clackamas County
Title Organization (HA)

Vice President & Manager _____, on behalf of Sheila Lynch
Title Organization (Depository)

Portland Field Office, Public Housing Director _____, on behalf of HUD
Title Organization (HUD)

Notice shall be made in writing. Notice may be delivered in person, by United States Postal Service mail, by receipted commercial mail delivery, by facsimile machine or other electronic means that clearly identifies the sender as one of the persons so authorized in this paragraph. **Notice under the terms of this agreement shall be implemented by the Depository within 24 hours of actual receipt.**

In Witness Whereof, the HA and the Depository have caused this Agreement to be executed in their respective names and their respective seal to be impressed hereon and attested as of the date and year first above written.

Housing Authority of Clackamas County
HA
(SEAL)
ATTEST:
By _____
Chairman

Secretary

Depository Wells Fargo Bank, N.A.
(SEAL)
ATTEST
By _____

Address for Notice: 333 Market Street, 15th Floor, MAC A0109-150, San Francisco, CA 94105, ATTN: Public Funds Collateral Management Group; **Email:** publicfundscollateral@wellsfargo.com; **Toll-free:** 1-877-479-6603; **Fax:** 1-866-686-5441

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September 20, 2018

Housing Authority Board of Commissioners
 Clackamas County

Members of the Board:

In the Matter of Writing off Uncollectible Accounts for the First Quarter of Fiscal Year 2019

Purpose/Outcomes	Approval to write off uncollectible rents, late charges and maintenance expenses for the first quarter of fiscal year 2019
Dollar Amount and Fiscal Impact	\$17,720.09 in total collection losses.
Funding Source	N/A
Duration	July 1, 2018 – September 30, 2018
Previous Board Action	First, second, third and fourth quarter collection losses were approved by the Housing Authority Board of Commissioners.
Strategic Plan Alignment	1. Efficient & effective services 2. Build Public Trust through good government
Contact Person	Chuck Robbins, Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests the approval to write off uncollectible rents, late charges and maintenance expenses for the first quarter of fiscal year 2019 (July 1, 2018 – September 30, 2018). The uncollectible amounts are detailed on the attached worksheets.

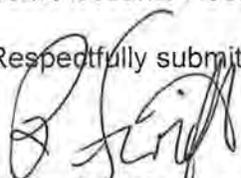
Uncollectible amounts for the first quarter of fiscal year 2019 will be \$10,438.09 for Low Rent Public Housing, \$7,282.00 for Local Project Fund. Of the total first quarter write offs, \$8,409.01 was for uncollected rents and \$9,311.08 was for maintenance repairs charged to tenants for repairs required to units before HACC could lease them to a new tenant. The total amount proposed for transfer from Accounts Receivable to Collection Loss for the first quarter of fiscal year 2019 will be \$17,720.09.

As a business practice, HACC writes off debts after 90 days of collection efforts. Former residents in Public Housing that have debts that are written off continue to be tracked and are reported to a Federal database that prohibits their participation in any other Public Housing program nationally until such debt is paid.

RECOMMENDATION:

HACC recommends the approval to write off uncollectible rents, late charges and maintenance expenses and for the Executive Director to be authorized to approve the transfer of these accounts from Accounts Receivable to Collection Loss.

Respectfully submitted,



Richard Swift, Director
 Health, Housing & Human Services

LRPH

Collection Loss for the period of

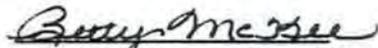
7/1/2018

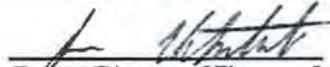
to

9/30/2018

First Quarter of Fiscal Year 2019

Unit #	SS #	Name	Rent	Sundry	Total
			1,189.32	2,077.46	\$ 3,266.78
			7.84	1,321.92	\$ 1,329.76
			780.00	614.70	\$ 1,394.70
			194.02	1,539.96	\$ 1,733.98
			565.80	1,807.51	\$ 2,373.31
			48.58	192.83	\$ 241.41
			35.65	62.50	\$ 98.15
					\$ -
Total Write-off			2,821.21	7,616.88	10,438.09


Accounting Specialist I - Betty McKee


Deputy Director of Finance - Jason Kirkpatrick


Executive Director - Chuck Robbins

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September 20, 2018

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Adoption of Revisions to the Housing Authority of Clackamas County's Bylaws

Purpose/Outcomes	Approval to amend the Housing Authority of Clackamas County's Bylaws
Dollar Amount and Fiscal Impact	No fiscal impact
Funding Source	N/A
Duration	September 20, 2018 until amended
Previous Board Action	The HACC Board Adopted the restated bylaws at the November 20, 2008 meeting, making them effective January 1, 2009.
Strategic Plan Alignment	1. Efficient & effective services 2. Build Public Trust through good government
Contact Person	Chuck Robbins, Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval of the HACC 2018 Restated Bylaws (Bylaws).

Currently the Board of Commissioners of the Housing Authority of Clackamas County (Board) consists of the Clackamas County Board of Commissioners plus one Resident Commissioner who is a participant in either the Public Housing program or the Section 8 Housing Choice Voucher program. Changes to the 2009 Restated Bylaws are needed to clarify the Annual Meeting, office locations, and Vice Chair elections. These are non-substantive changes that bring the bylaws into alignment with current practices. Specific changes are as follows:

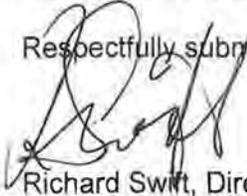
- Article II, Section 1, stated the Authority shall of six (6) Commissioners, one (1) a Resident Commissioner. The six (6) Commissioners shall be elected by the Citizens of Clackamas County.
- Article II, Section 6, updated when the Vice Chair is elected, removed Annual Meeting and inserted first Commissioners meeting in January.
- Article III, Section 1, updated the Annual Meeting to be held in March instead of January.

These changes have no financial impact on the County or HACC.

RECOMMENDATION:

Staff recommends that the Board approve and authorize the Chair to sign the revised Bylaws making them effective September 20, 2018.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", written over the text "Respectfully submitted,".

Richard Swift, Director
Health, Housing & Human Services

HOUSING AUTHORITY OF CLACKAMAS COUNTY
2009 RESTATED BYLAWS

ARTICLE I – THE AUTHORITY

Section 1. Name of Authority. The Name of the Authority shall henceforward be:
“Housing Authority of Clackamas County.”

Section 2. Seal of Authority. The seal of the Authority shall be in the form of a circle and shall identify the Authority in words and show the year of its organization.

Section 3. Office of Authority. The offices of the Authority shall be at such location in the County of Clackamas, State of Oregon, as the Authority may designate from time to time by Board action, and the Authority may hold its meetings at its offices or at such other places as it may designate by Board action.

ARTICLE II – OFFICERS/COMMISSIONERS

Section 1. Officers/Commissioners. The Authority shall have six (6) Commissioners, one (1) shall be a resident of the Authority. The remaining Commissioners shall be elected by the citizens of Clackamas County~~officers of the Authority shall be a Chairperson (Chair), a Vice-Chairperson (Vice-Chair) and a Secretary (Executive Director).~~

Section 2. Chair. The Chair shall preside at all meetings of the Authority. Except as otherwise authorized by Board action, the Chair shall sign all contracts, deeds and other instruments made by the Authority. At each meeting the Chair shall submit those recommendations and information that s/he considers proper concerning the business, affairs and policies of the Authority.

Section 3. Vice-Chair. The Vice-Chair shall perform the duties of the Chair in the absence or incapacity of the Chair, and in case of the resignation or death of the Chair, the

Vice-Chair shall perform those duties imposed on the Chair until the ~~Authority-County~~ selects a new Chair.

Section 4. Secretary (Executive Director). The Executive Director shall be the chief administrative officer of the Authority.

The Executive Director shall be responsible for all aspects of the management of the Authority and for carrying out policies established by the Commissioners. S/he shall be responsible for the employment and termination of all Authority personnel and for implementing its personnel policies. S/he shall provide leadership in working with the staff toward accomplishing the goals of the Authority. S/he shall have the primary responsibility for developing new programs that will lead to better service to residents and the capability to house a greater share of those in the community who are in need of publicly assisted and affordable housing. S/he shall have the responsibility of coordinating the Authority's efforts with the plans and programs of other local, regional, state and federal agencies, as well as the public or private agencies or organizations that may be of assistance to the Authority or that the Authority may assist.

The Executive Director shall also be responsible for keeping correct records of the meetings of the Commissioners; supervise the preservation of all records of the Authority; and be responsible for all funds of the Authority.

Section 5. Additional Duties. The officers of the Authority shall perform such other duties and functions as may be required by federal and state law, the Commissioners, the By-laws, or the rules and regulations of the Authority.

Section 6. Election or Appointment. The Chair shall be the Board of County Commissioners Chair and shall hold office for four years or until they are re-elected or their successors are elected and qualified under state law. The Vice-Chair shall be selected at the

first Commissioners meeting in January annual meeting from among the Commissioners of the Authority, and shall hold office for one year or until they are re-elected or their successors are elected and qualified under state law.

The Executive Director shall be appointed by the Commissioners. Any person appointed to fill the office of Executive Director, or any vacancy therein, shall serve such term as the Commissioners may prescribe. No Commissioner of the Authority shall be eligible to this office except as a temporary appointee.

Section 7. Vacancies. Should the offices of Chair or Vice-Chair become vacant, the Commissioners of the Authority shall elect a successor from its membership at the next regular meeting, and such election shall be for the unexpired term of said office. When the office of Executive Director becomes vacant, the Commissioners shall appoint a successor.

Section 8. Additional Personnel. The Authority may employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the Housing Authorities Law of Oregon and all other applicable laws of the State of Oregon. The selection and compensation of such personnel (including the Executive Director) shall be determined by the Authority subject to the requirements of state and federal law.

Section 9. The Commissioners of the Authority. The Board of Clackamas County Commissioners shall constitute the core Commissioners of the Authority. So long as federal law requires it, an additional Commissioner shall be appointed by the core Commissioners. The appointed Commissioner shall be a resident as defined by federal law. This commissioner shall be known as the appointed Resident Commissioner.

Section 10. Commissioners' Terms of Office. The terms of office of the core Commissioners of the Authority shall correlate to their terms as officials of the County governing body. The first appointed Resident Commissioner's term shall run until January

2005, and subsequent terms shall run in four year increments. At the discretion of the core Commissioners, the appointed resident Commissioner may be re-appointed at the conclusion of a term. At any time during a term, the appointed resident Commissioner may be removed for cause as described in state statutes, or if s/he ceases to meet the requirements for being an appointed resident Commissioner, or if the federal law requiring an appointed resident Commissioner is repealed.

Section 11. Relationship Between the Authority and Clackamas County. The core Commissioners of the Authority are empowered to sustain an administrative relationship between the Authority and Clackamas County for the purpose of maximizing the efficiency of Authority resources and facilitating County support for Authority goals and projects, when appropriate. At the discretion of the core Commissioners, a component of this relationship between the Authority and Clackamas County may be a requirement that the Executive Director act only with the direction and approval of a County manager designated to provide such supervision.

ARTICLE III – MEETINGS.

Section 1. Annual Meeting. The annual meeting of the Authority shall be held ~~in March on the third Thursday in January~~ at the designated meeting place of the Authority.

Section 2. Regular Meetings. Monthly meetings shall be held without notice at the regular meeting place of the Authority on the third Thursday of each month, unless the same shall be a legal holiday. A regular monthly meeting may be cancelled with at least forty-eight hours notice to all Commissioners, if no agenda items have been scheduled for that regular monthly meeting.

Section 3. Special Meetings. The Chair of the Authority may, when it is deemed expedient, call a special meeting of the Authority for the purpose of transacting any business

designated in the call. The call for a special meeting will be made at least three days prior to the date of such special meeting. At such special meeting no business shall be considered other than as designated in the call, but if all the Commissioners of the Authority are present at a special meeting, any and all business may be transacted at the special meeting. Special meetings shall occur on Thursdays at the regularly scheduled Board of Clackamas County Commissioners meeting, but with unanimous consent of all Commissioners of the Authority, a special meeting may be held at any time.

Section 4. Quorum. The powers of the Authority shall be vested in the Commissioners. A majority of the Commissioners shall constitute a quorum of the Authority for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Authority upon a vote of a majority of the Commissioners present. No action may be passed or approved by a vote of the Commissioners that results in a tie.

Section 5. Conduct of Meetings. Meetings of the Authority shall be conducted according to the latest revision of Robert's Rules of Order.

All Board actions shall be in writing and shall be copied in a journal of the proceedings of the Authority.

Section 6. Public Meeting Law. The Authority shall comply in all respects with ORS Chapter 192.610 through 192.710 as those statutes may from time to time be amended.

Section 7. Manner of Voting. The voting on all questions coming before the Commissioners of the Authority shall be by voice vote. All actions of the Commissioners shall be deemed to have been taken unanimously by all Commissioners present unless the

ayes and noes entered upon the minutes of a meeting reflect otherwise. Commissioners not specifically abstaining or voting negatively shall be counted as voting affirmatively.

ARTICLE IV – AMENDMENTS

Amendments to By-Laws. The By-laws of the Authority shall be amended only with the approval of four Commissioners of the Authority at a regular or special meeting, but no such amendment shall be adopted unless at least seven days' written notice was previously given to all of the Commissioners of the Authority.

Adopted By: Housing Authority Board of Commissioners

Chair: Jim Bernard
Vice Chair: Sonya Fischer
Commissioner: Ken Humberston
Commissioner: Paul Savas
Commissioner: Martha Schrader
Resident Commissioner: Paul Reynolds

Effective: September 20, 2018

Signing on Behalf of the Board:

Chair

Date



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-003,
Annexation to Clackamas River Water

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Jeff Heinrich
Assistants

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a domestic water supply district, and Clackamas River Water is such a district.

Proposal No. CL 18-003 is a proposed annexation to Clackamas River Water ("District").

State statute requires the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 500 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857 and ORS 198.750 (section of statute which

specifies contents of petition). If the Board approves the proposal, the boundary change will become effective immediately.

The territory to be annexed is located generally in the south part of the District. The territory contains 7.63 acres, 1 single family dwelling, and a population of 4, and is valued at \$244,463.

REASON FOR ANNEXATION:

The property owners desire water service for the existing single family dwelling.

CRITERIA:

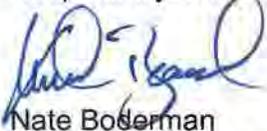
Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district." The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order.

Service availability is covered in the findings attached to the proposed order.

RECOMMENDATION:

Based on the attached Order and Findings, staff recommends approval of Proposal No. CL-18-003, annexation to Clackamas River Water.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal No.
CL-18-003



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that more than half the electors and owners of more than half the land in the territory to be annexed have petitioned to annex the territory to Clackamas River Water; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report; and

Whereas, it further appearing that this matter came before the Board for a public hearing on September 20, 2018 and that a decision of approval was made on September 20, 2018;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL-18-003 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas River Water.

ADOPTED this 20th day September, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 7.63 acres, 1 single family dwelling, a population of 4 and is valued at \$244,463.
2. The property owners desire water service for the existing single family dwelling.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Service availability is covered in the section below.

4. The territory is outside the jurisdictional boundary of Metro and outside the regional Urban Growth Boundary.
5. The territory is designated Agriculture on the Clackamas County Non-urban Area Land Use Plan Map (IV-7). The territory is zoned EFU, Exclusive Farm Use.

The following policies from the Public Facilities and Services element of the County's plan are applicable:

Water

- 12.0 Require all public water purveyors to design the extension of water facilities at levels consistent with the land use element of the Comprehensive Plan.

- 15.0 Require water service purveyors to provide water services for nonurban areas at levels which are appropriate for nonurban use.

There are no service agreements between a local government and the District which affect the territory to be annexed.

6. There is no public sewer service in this area.
7. The District has a 10-inch water line in S. Mountain Meadow Road which can serve the site.
8. The area receives police service at a rural level from the Clackamas County Sheriff's Department.

9. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the water district.

CONCLUSION AND REASON FOR DECISION

Based on the Findings, the Board determined:

1. ORS 198 requires the Board to consider the applicable local comprehensive plan and any service agreements affecting the area. The local comprehensive plan was considered and no conflicts with the Plan were discovered. As noted in Finding No. 5 above the Plan contains no clear restrictions on expansion of water districts in lands designated as Agricultural. No directly applicable service agreements were found to exist.
2. The District has a water line which can provide adequate service to the site.

EXHIBIT B

Repetto & Associates, Inc. Land Surveyors

12730 SE Stark St.
Plaza 125, Building G
Portland, OR 97233

Phone: 503-408-1507
www.repetosurveying.com

Winston & May Chang
21323 S. Mountain Meadow Rd.
Beavercreek, OR 97004

Property Legal Description

A tract of land situated in the NW 1/4 and SW 1/4 of Section 24, Township 3 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, being all that land conveyed to Winston Chang and May Ota Chang, trustees of the Winston and May Ota Chang 2013 trust, as described by deed recorded as document no. 2014-026974, Clackamas County Deed Records, being more particularly described as follows:

Beginning at the northwest corner of said Chang tract, also being the southwest corner of Lot 1, Harmon's Crest, Clackamas County Plat Records; thence, along the north line of said Chang tract and the south line of said Lot 1, South 89°25'09" East, 443.30 feet to a point on the west right of way line of S. Mountain Meadow Road; thence, along said west right of way line, South 00°03'02" East, 740.96 feet to the southeast corner of said Chang tract; thence, along the south line of said Chang tract, North 89°38'02" West, 452.65 feet to the southwest corner thereof; thence, along the west line of said Chang tract, North 00°40'19" East, 742.61 feet to the point of beginning.

Containing 7.63 acres, more or less.

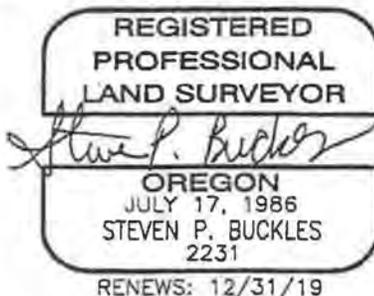


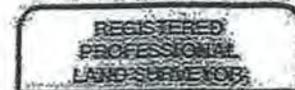
EXHIBIT B

LEGAL DESCRIPTION
RIGHT-OF-WAY CONNECTION
FOR CLACKAMAS RIVER WATER DISTRICT
WINSTON CHANG

JOB NO. 7944
09/11/17 MAR

A STRIP OF LAND (VARIABLE WIDTH) LOCATED IN THE NORTHWEST ONE-QUARTER AND THE SOUTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, SAID STRIP BEING A PORTION OF KILLDEER ROAD AND MOUNTAIN MEADOW ROAD (PRIVATE), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST ONE-QUARTER CORNER OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN; THENCE ALONG THE CENTERLINE OF KILLDEER ROAD (50.00 FEET WIDE, THE NORTH RIGHT-OF-WAY LINE BEING 30.00 FEET FROM CENTERLINE AND SOUTH RIGHT-OF-WAY LINE BEING 20.00 FEET FROM CENTERLINE) S.89°38'02"E., 1298.23 FEET TO THE CENTERLINE OF MOUNTAIN MEADOW ROAD; THENCE ALONG THE CENTERLINE OF MOUNTAIN MEADOW ROAD (PRIVATE) (54.00 FEET WIDE, THE WEST RIGHT-OF-WAY LINE BEING 34.00 FEET FROM CENTERLINE AND THE EAST RIGHT-OF-WAY LINE BEING 20.00 FEET FROM CENTERLINE) N.00°03'02"W., 1402.78 FEET TO A POINT ON THE SOUTH LINE OF LOT 1, "HARMON'S CREST", RECORDED IN PLAT BOOK 134 PAGE 010, CLACKAMAS COUNTY PLAT RECORDS, WHICH BEARS NORTH 89°25'03" WEST, FROM THE SOUTHEAST CORNER OF SAID LOT 1 AND THE TERMINUS OF SAID VARIABLE WIDTH STRIP, THE SIDELINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO CREATE A CONTINUOUS STRIP. -20'



Michael A. Baerbacher

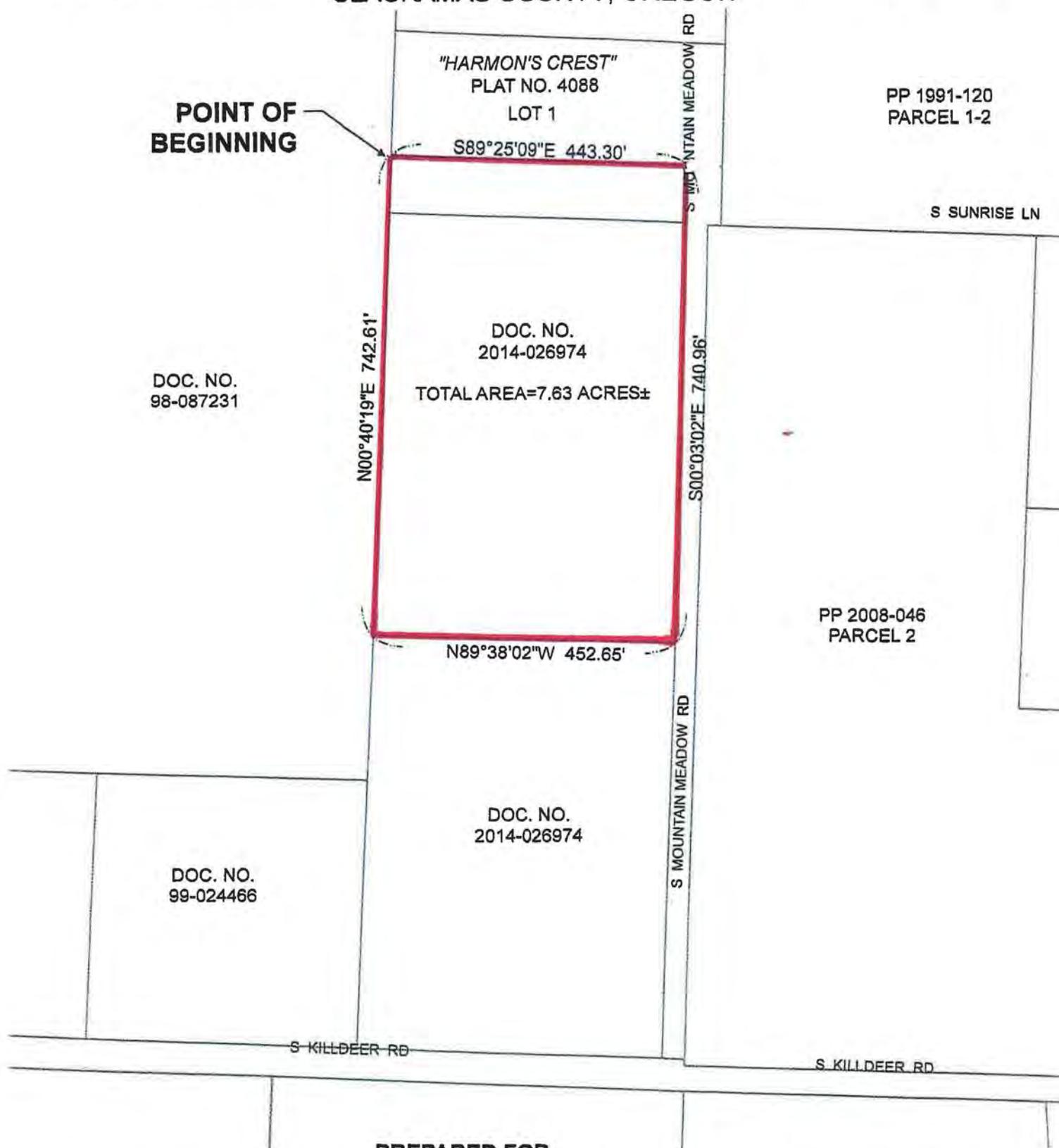


DATE OF SIGNATURE: 9-12-17
 EXPIRES: 12/31/2018



EXHIBIT C

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 AND THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON



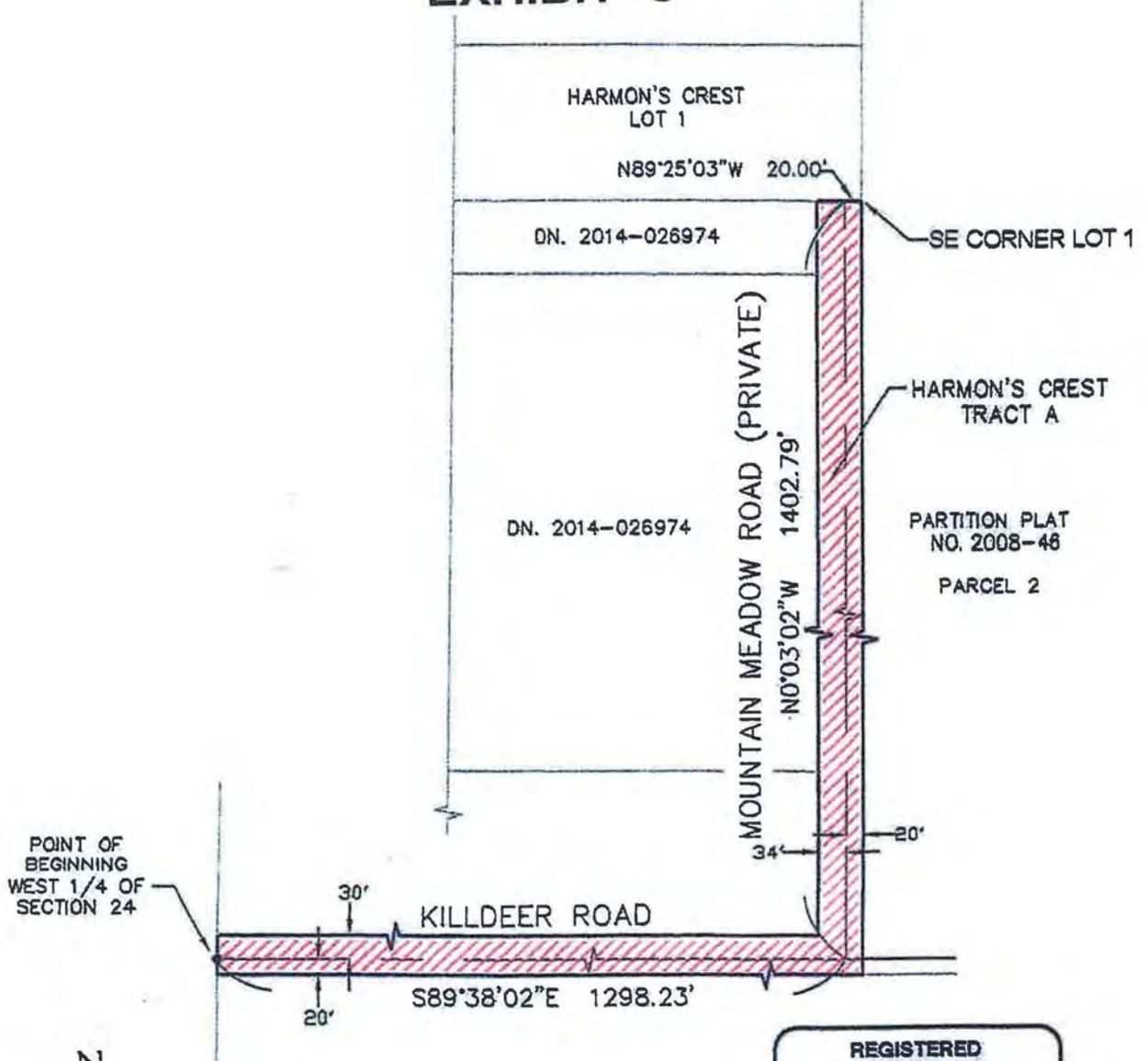
Legend

District Boundary

PREPARED FOR
WINSTON & MAY OTA CHANG
10935 SE HAPPY VALLEY DR
HAPPY VALLEY, OR 97086

SCALE: 1"=200 FEET
2 of 4

EXHIBIT C



Scale: 1" = 200'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael A. Rademacher

OREGON
JULY 16, 1987
MICHAEL A. RADEMACHER
2303

DATE OF SIGNATURE: 9-12-17
EXPIRES: 12/31/2018

EXHIBIT "B"

7944-EXH.dwg

COMPASS Land Surveyors
4107 SE International Way, Suite 705
Milwauke, Oregon 97222 503-653-9093

LOCATED IN THE NW1/4 AND THE SW1/4
OF SECTION 24, TOWNSHIP 3 SOUTH,
RANGE 2 EAST, WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, OREGON



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-007
Annexation to Clackamas County Service District No. 1

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Jeff Heinrich
Assistants

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district, and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 18-007 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)), the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal, the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains 129.5 acres, is vacant, and is valued at \$323,526.

REASON FOR ANNEXATION:

The property owners (North Clackamas School District) desire sewer service to serve an elementary school to be constructed on the site.

CRITERIA:

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements, or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-18-007, annexation to Clackamas County Service District No. 1.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal No.
CL 18-007



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, it further appearing that this matter came before the Board for public hearing on September 20, 2018 and that a decision of approval was made on September 20, 2018;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 18-007 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of September 20, 2018.

DATED this 20th day of September, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Based on the study and the public hearing the Board found:

1. Proposal No. CL 18-007 is a proposed annexation to Clackamas County Service District No. 1 ("District").
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed contains 12.95 acres, 1 single family dwelling, is vacant and is valued at \$323,526.
4. The property owners desire sewer service for an elementary school to be constructed on the site.
5. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted in Finding 2.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Findings 7 and 8. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is inside the City of Happy Valley and has a zoning designation of Low Density Residential. The property has received a conditional use permit and design review approval from the City.
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. WES, as the service provider for the District, has a sewer line in SE 172nd Avenue adjacent to the property.
11. The territory is within the Sunrise Water Authority and is already served by that the

Authority.

12. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
14. The area to be annexed receives parks and recreation service from the City of Happy Valley.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #5839

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

EXHIBIT B

Annexation Description

A tract of land, and a portion of right-of-way, located in the Northeast One-Quarter of Section 6, Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the northeast corner of said Section 6; thence along the east line of said Section 6, South 00°39'18" West 1307.78 feet to the northerly right-of-way line of SE Vogel Road (20.00 feet from centerline); thence along said northerly right-of-way line, North 89°08'10" West 378.60 feet to the southwesterly corner of Document Number 2012-067663, Clackamas County Deed Records and the Point of Beginning; thence leaving said northerly right-of-way line along the southerly extension of the westerly line of said deed, South 00°35'59" West 40.00 feet to the southerly right-of-way line of SE Vogel Road (variable width from centerline); thence along said southerly right-of-way line, Westerly 2250 feet, more or less, to the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the Clackamas County Service District No. 1 (CCSD#1) limits line; thence along said easterly right-of-way line and said CCSD#1 limits line, Northerly 70 feet, more or less, to the northerly right-of-way line of SE Vogel Road (variable width from centerline); thence along said northerly right-of-way line, Easterly 1975 feet, more or less, to the southeasterly corner of Document Number 2017-084461, Clackamas County Deed Records; thence along the easterly line of said deed, North 00°34'01" East 503.45 feet to the northeasterly corner thereof; thence along the northerly line of said deed, North 89°05'02" West 220.00 feet to the northwesterly corner thereof, also being on the easterly line of Document Number 2017-064511, Clackamas County Deed Records; thence along said easterly line, North 00°34'01" East 475.20 feet to the northwesterly corner of Document Number 2017-084462, Clackamas County Deed Records; thence along the northerly line said deed, South 89°05'02" East 625.57 feet to the northeasterly corner thereof; thence along the easterly line of said deed, South 00°36'40" West 560.00 feet; thence continuing along said easterly line, North 89°06'37" West 124.98 feet; thence continuing along said easterly line, South 00°35'59" West 418.34 feet to the Point of Beginning.

The above described tract of land contains 12.95 acres, more or less.

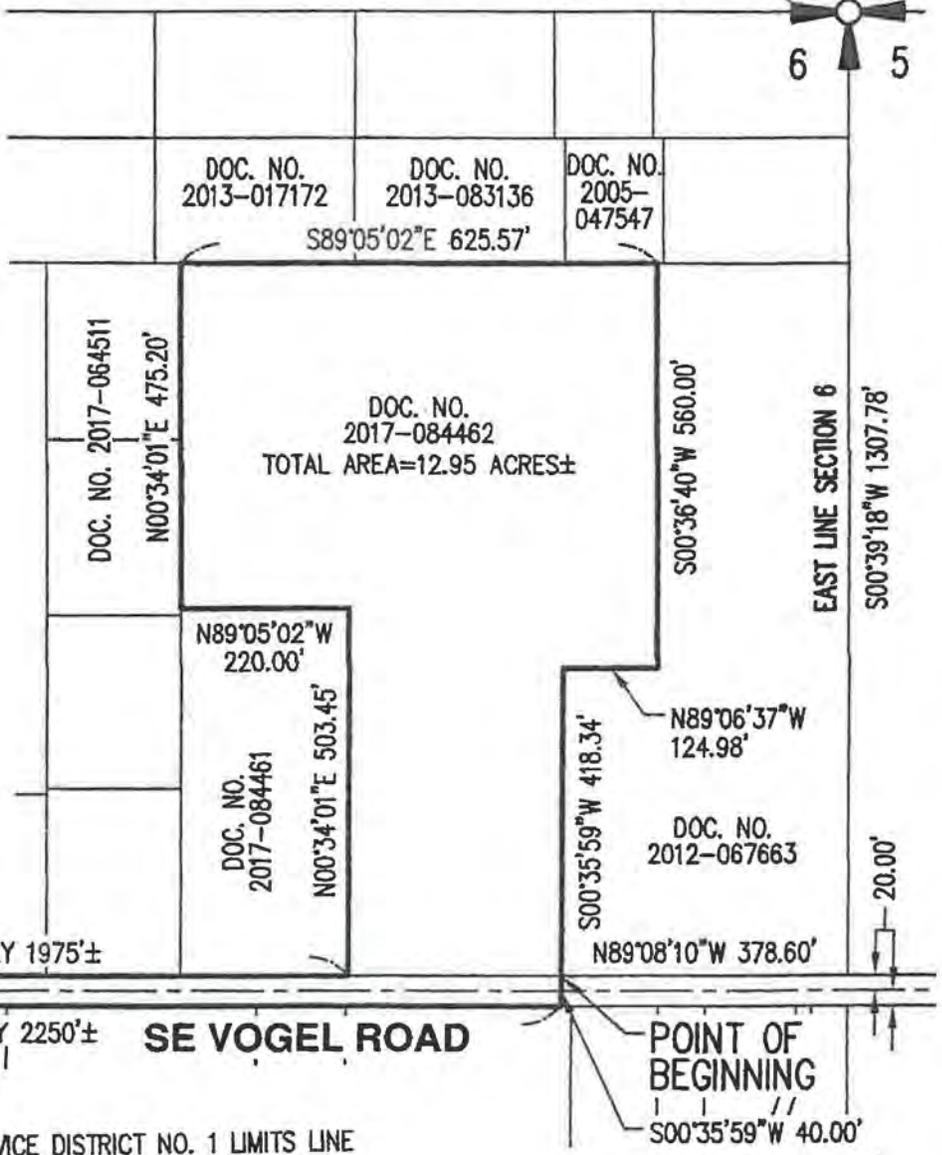
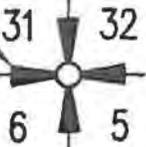
3/6/2018



EXHIBIT C

A TRACT OF LAND, AND A PORTION OF RIGHT-OF-WAY,
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 6,
 TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,
 CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON

POINT OF COMMENCEMENT
 NE COR SEC 6



LEGEND

CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 LIMITS LINE

3/6/2018

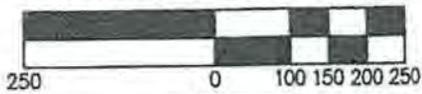
REGISTERED PROFESSIONAL LAND SURVEYOR

Nick White
 OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS
 RENEWS: 6/30/18

PREPARED FOR

HEERY INTERNATIONAL
 TWO CENTERPOINTE DRIVE, SUITE 250
 LAKE OSWEGO, OR 97035

SCALE: 1" = 250 FEET



CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
 ANNEXATION MAP

AKS ENGINEERING & FORESTRY, LLC
 12965 SW HERMAN RD, STE 100
 TUALATIN, OR 97062
 P: 503.563.6151 F: 503.563.6152 aks-eng.com



EXHIBIT
B
 DRWN: WCB
 CHKD: NSW
 AKS JOB:
 5839



DAN JOHNSON
DIRECTOR

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

September 20, 2018

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of a Board Order Accepting a Transfer of Jurisdiction from
Clackamas County to the City of Canby for a Portion of
South Fir Street (County Road #1288)**

Purpose/Outcomes	Jurisdictional transfer of a portion of South Fir Street to the City of Canby.
Dollar Amount and Fiscal Impact	Cost savings in the form of staff time and Maintenance monies used on a County maintained portion of road located entirely within the City of Canby. Initial cost of transfer is \$56,000, which represents the cost of a 2" asphalt overlay of that portion being transferred.
Funding Source	Road Fund
Safety Impact	Transferring jurisdiction to the City will allow future development on South Fir Street to be consistent throughout, and will alleviate confusion on the part of the public.
Duration	Upon execution; permanent
Previous Board Action	N/A
Strategic Plan Alignment	Build a strong infrastructure Build public trust through good government
Contact Person	Rick Maxwell, Engineering Tech; 503-742-4671

BACKGROUND:

There are certain County roads, such as South Fir Street in Canby, that are wholly, mostly, or partially within various Cities throughout Clackamas County. Fragmented jurisdiction over these roads often results in differing road maintenance activities and confusion by the public as to which agency is responsible for the operation and maintenance of the roads. Clackamas County and the City of Canby have agreed to the transfer of a portion of South Fir Street, currently under the jurisdiction of the County, to the City with the intent of eliminating confusion to the public and to improve the efficiencies of maintenance and public service.

The County and the City of Canby have an agreement to provide funds to the City of Canby in the amount of \$56,000, which is equal to the cost of a 2" asphalt overlay, in exchange for the City assuming exclusive jurisdiction over that portion of South Fir Street containing approximately 62,630 square feet of Right-of-Way. By accepting jurisdiction over the portion of

South Fir Street, the City becomes the "Road Authority" responsible for all maintenance, improvement, permitting and road standard activities.

This is 1 of 3 agreements relating to the transfer of South Fir Street to the City of Canby. This Board Order has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully requests that the Board approve this Board Order between Clackamas County and the City of Canby related to the transfer of jurisdiction of a portion of South Fir Street and the payment to the City in an amount equivalent to a 2" asphalt overlay of that portion being transferred.

Respectfully submitted,

Rick Maxwell,
Engineering Technician
Transportation and Development

Attachments:
Board Order
Map of proposed transfer area

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

In the matter of transferring to the City of Canby, jurisdiction over a portion of South Fir Street, County Road No. 1288, DTD No. 41003



Board Order No. _____

Page 1 of 2

This matter coming before the Board of County Commissioners as a result of the County initiating action pursuant to ORS 373.270(5) to surrender jurisdiction of a county road within the boundary of the City of Canby, and the preceding negotiation between the City of Canby and Clackamas County Department of Transportation and Development to transfer portions of the following road:

<u>Road Name</u>	<u>Cnty #</u>	<u>DTD #</u>	<u>From</u>	<u>To</u>	<u>Square Feet</u>
South Fir Street	1288	41003	MP 0.00	MP 0.31	62,630 sf

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

It further appearing to the Board that said transfer of jurisdiction is in the best interest of the citizens of Clackamas County; and,

It further appearing to the Board that pursuant to ORS 373.270, notice of the hearing on this matter was provided by publication in the Canby Herald on 08/19/2018, 08/26/2018, 09/02/2018 and 09/09/2018; now therefore,

IT IS HEREBY ORDERED that Clackamas County offer to surrender jurisdiction over a portion of South Fir Street to the City of Canby such that full and absolute jurisdiction of said portions of roadway for all purposes of repair, construction, improvement and the levying and collection of assessments therefor be transferred to the City of Canby and shall vest as of the date the City of Canby accepts, by appropriate municipal legislation, the County's offer to surrender jurisdiction; and,

IT IS FURTHER ORDERED that this offer shall be withdrawn unless it is accepted by the City of Canby within one year of the date of this order; and,

IT IS FURTHER ORDERED that, upon acceptance by the City of Canby the County's offer to surrender jurisdiction of the portion of the roadway described herein pursuant to ORS 273.270(5), 62,630 square feet, more or less, be removed from the County's Road Inventory; and,

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

In the matter of transferring to the
City of Canby, jurisdiction over
a portion of South Fir Street, County
Road No. 1288, DTD No. 41003



Order No.
Page 2 of 2

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

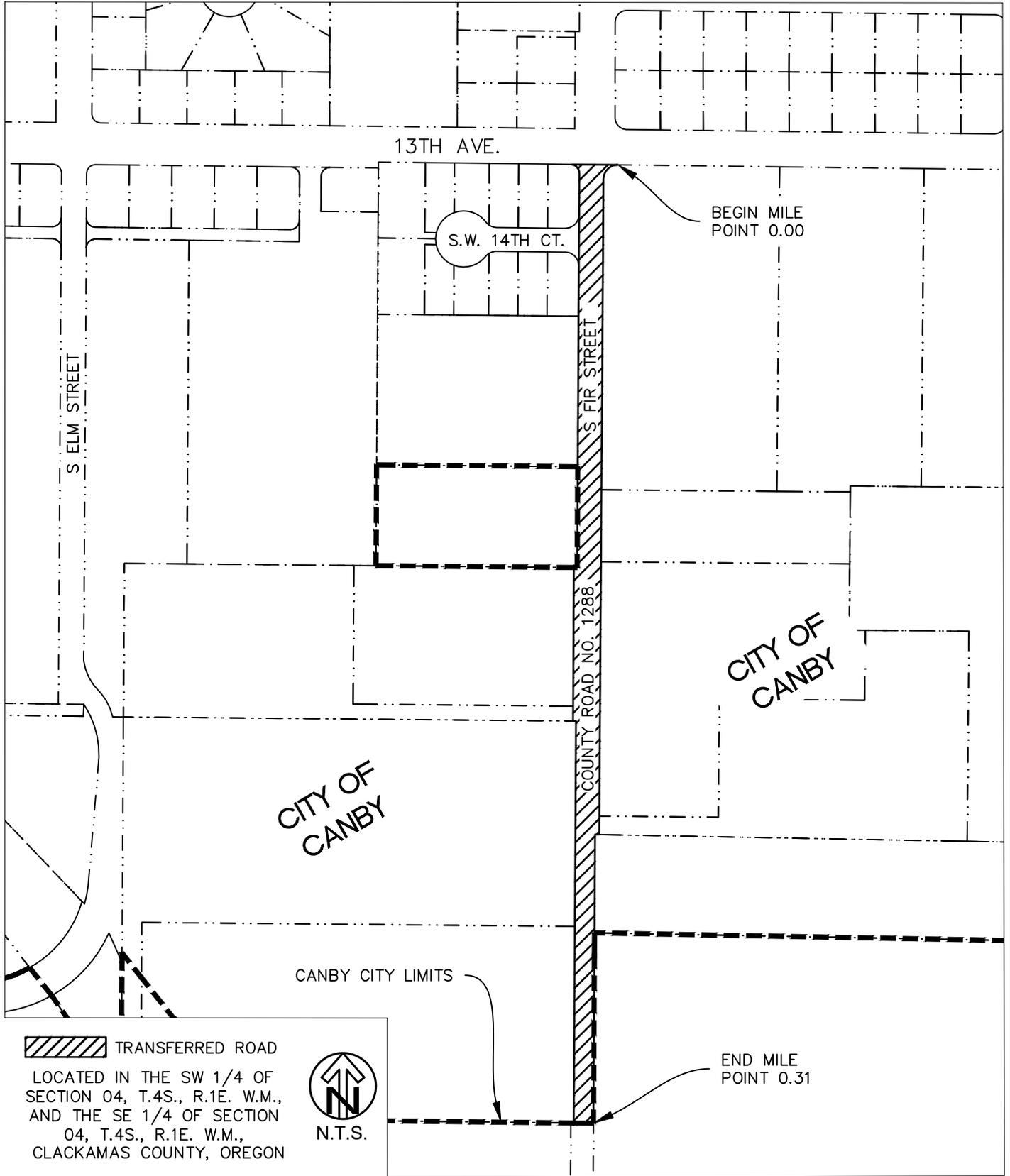
ADOPTED this _____ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT "A"



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

150 BEAVERCREEK ROAD
 OREGON CITY, OR 97045



BY: R. MAXWELL

DATE: 7/24/2018

JURISDICTIONAL TRANSFER
 S FIR STREET
 COUNTY ROAD NO. 1288

SHEET

1 OF 1

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Service Agreement with Genoa (Beavercreek) partnering
with Clackamas County Health Centers Division
in participation with 340B Pharmacy Services Agreement

Purpose/Outcomes	The intent of the Service Agreement is to facilitate Clackamas County Health Centers Division (CCHCD) participation in the 340B drug program.
Dollar Amount and Fiscal Impact	The Agreement has no maximum value as it will generate revenue for Clackamas County's Federally Qualified Health Center (FQHC). This will enter CCHCD and Genoa into a "ship to/bill to" arrangement wherein Genoa will dispense prescription drugs on behalf of CCHCD and then charge and collect fees for such drugs.
Funding Source	No County General Funds are involved. This is revenue generating through the 340B Drug Program.
Duration	Effective upon signature and terminates with the Third Party Drug Administrator Agreement (RxStrategies, 6/30/23).
Strategic Plan Alignment	1. Provide patient-centered health center services to vulnerable populations so they can experience improved health. 2. Ensure safe, health and secure communities
Previous Board Action	There has been no previous board action on this item.
Contact Person	Deborah Cockrell, FQHC Director – 503-742-5495
Contract No.	9002

BACKGROUND:

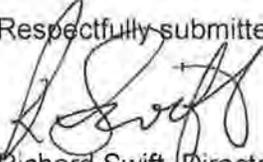
The Clackamas County Health Centers Division (CCHCD) requests the approval of a Service Agreement for the transition of the Third Party Administrator (TPA) of the 340B Program managed by CCHCD. The incumbent is NEC Networks, and it will be replaced with RxStrategies. The TPA manages the prescription drug virtual inventory of various pharmacies utilized by CCHCD. This agreement reflects the TPA change for the Genoa Beavercreek pharmacy location. Participation in the 340B Drug Program allows the purchase of prescription drugs for CCHCD patients at favorable discounts from drug manufacturers. Selection of RxStrategies replacing NEC Networks was done through a competitive RFP that was awarded on January 11, 2018. County Counsel reviewed and approved this agreement on August 30, 2018.

This Agreement is effective upon signature and continues through June 30, 2023,
(termination of the Third Party Administrator Agreement, RxStrategies).

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", written over a faint, illegible stamp.

Richard Swift, Director
Health, Housing, and Human Services

PHARMACY SERVICE AGREEMENT

#9002

THIS AGREEMENT is made this ___ day of _____, 201__, by and between *County of Clackamas*, a Oregon City nonprofit corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, (hereinafter "(Qualified Entity)" or "County of Clackamas") and, Genoa Healthcare, LLC., with licensed pharmacies located at the locations shown in Exhibit B. (hereinafter "Pharmacies").

WHEREAS, County of Clackamas is a "Covered Entity" as defined in Section 340B of the Public Health Service Act (hereinafter "Section 340B") and is eligible to purchase certain outpatient drugs at reduced prices for use by Eligible Patients, as defined in this Agreement, from drug manufacturers who have signed a drug purchasing agreement with the United States Department of Health and Human Services (hereinafter "DHHS") and/or the manufacturers' wholesalers;

WHEREAS, County of Clackamas provides health care services to Eligible Patients at the sites listed in Exhibit A (the "QE Site");

WHEREAS, County of Clackamas has engaged RxStrategies, Inc. ("RXS") to manage the pharmacy services and pharmacy relationship of County of Clackamas,

WHEREAS, the system, procedures and processes of RXS (past, current and future) remain the sole property of RXS and cannot be used by the County of Clackamas and/or the Pharmacy independent of this agreement in perpetuity without the written consent of RXS,

WHEREAS, Pharmacy is duly licensed as a pharmacy in the State of *Oregon* and

WHEREAS, County of Clackamas desires to engage Pharmacy to provide Pharmacy Services, as defined in this Agreement, to Eligible Patients on behalf of Qualified Entity with respect to outpatient drugs purchased pursuant to Section 340B.

NOW, THEREFORE, the parties agree as follows:

- 1) **Eligible Patients**. An individual will be considered an Eligible Patient under this Agreement if the following conditions are met:
 - a) County of Clackamas has established a relationship with the individual, such that County of Clackamas maintains records of the individual's health care;
 - b) The individual receives health care services from a health care professional who is either employed by County of Clackamas or under contract with County of Clackamas such that responsibility for the care remains with QE;
 - c) The individual receives a health care service or range of services from County of Clackamas which is consistent with the service or range of services for which grant funding, listed in Section 340B, or Federally qualified health County of Clackamas look-alike status has been granted County of Clackamas; and
 - d) The individual receives health care services at the County of Clackamas Site.
 - i) An individual will not be considered an Eligible Patient if the only health care service provided by County of Clackamas to the individual is the dispensing of a drug or drugs for subsequent self-

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administration or administration in the home setting. Notwithstanding the foregoing, individuals registered in a State operated or funded AIDS drug purchasing assistance program receiving financial assistance under Title XXVI of the Public Health Services Act are considered Eligible Patients.

- e) The patient is not eligible for the 340B program if the individual is part of a fee for service Medicaid program provided by the State; or, any other program the is deemed ineligible for the 340B program as specified by law, statute or administrative ruling.
- 2) **Covered Drugs.** The prescription outpatient drugs covered by this Agreement (hereinafter "Covered Drugs") are listed on Attachment A of this Agreement. The parties agree that County of Clackamas may add or remove Covered Drugs from Attachment A at its sole discretion during the life of this Agreement. Drug substitution may only be made in compliance with an approved substitution notice from the manufacturer.
- 3) **Purchases, Shipment and Pricing of Drugs.**
- a) Pharmacy shall maintain sufficient supplies of such drugs to meet the day-to-day needs of Eligible Patients. County of Clackamas will replenish Pharmacy's inventory for Covered Drugs dispensed to Eligible Patients for which payment under this Agreement was received by Pharmacy. County of Clackamas reserves the right to make appropriate substitutions of drugs as required by the manufacturer. County of Clackamas shall arrange to be billed directly for Covered Drugs by the manufacturer/wholesaler(s), and arrange for shipment of such drugs directly to the Pharmacy or the designated warehouse of the Pharmacy as requested by the pharmacy. Replenished drugs that are in "overstock" status remain the property of the QE. County of Clackamas, through RXS, shall establish all retail prices for Covered Drugs for all Eligible Patients as provided in Attachment A, which may be amended from time to time by County of Clackamas.
 - b) In order to facilitate the timeliness of the inventory replenishment process and ensure that drug replenishment is consistent with current and historical practices of the Pharmacy, Pharmacy shall provide, if requested by RXS, the following documentation and information to RXS upon execution of this Agreement:
 - i) Identification of all pharmaceutical wholesalers;
 - ii) Velocity reports for the most recent past three-month period from all wholesalers;
 - iii) List of inventory items by NDC with Usual and Customary prices;
 - iv) List of Pharmacy's third party payer agreements with provider numbers and evidence of Medicaid and Medicare participation;
 - v) A description of the Pharmacy's computer and communication equipment, including computers, printers, fax machines, number of telephone lines, Internet connectivity, e-mail pharmacy software version and release, and how drug database updates are handled and by whom; and
 - vi) Such other documentation and information as reasonably requested by RXS in support of the 340B program addressed in this agreement.
 - c) If at the end of any 120-day period after a drug has been dispensed, the QE is unable to replenish the dispensed drug to the Pharmacy, the QE will reimburse the Pharmacy for the cost of the drug dispensed at the documented cost of the drug to the Pharmacy. If the Pharmacy cannot produce

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appropriate documentation (e.g., invoice from wholesaler or manufacturer) for the cost of the drug, then the QE will reimburse the Pharmacy at the prevailing 340B price.

- d) At the termination of the Agreement, the contract pharmacy must attest to the QE that all 340B drugs in inventory in excess of requirement ("Overstock") have been destroyed and therefore cannot be used in general commerce. Written notification of the destruction will be provided to the QE.
- 4) **Tracking System.** The parties to this Agreement understand that, pursuant to Section 340B, County of Clackamas is liable to the manufacturer of Covered Drugs in an amount equal to the reduction in the price of Covered Drugs in the event that a discounted Covered Drug is sold or otherwise transferred to a person who is not an Eligible Patient. County of Clackamas shall establish and maintain a tracking system suitable to prevent the diversion of Covered Drugs to individuals who are not Eligible Patients. County of Clackamas will establish a process for periodic random (sample) comparison of its prescribing records with Pharmacy's dispensing records to detect potential irregularities. Said comparison will be conducted quarterly and comparison of purchasing and dispensing records will be performed every six months.
 - a) Pharmacy agrees to use the provider identified by RXS for pre-adjudication of all claims. Pharmacy agrees to make any and all adjustments to purchasing and dispensing records that County of Clackamas advises are reasonably necessary to prevent diversion of Covered Drugs to individuals who are not Eligible Patients.
- 5) **Prescriptions.** Pharmacy shall dispense Covered Drugs only in the following circumstances:
 - a) Upon presentation of a prescription form bearing an eligible prescriber's name, the Eligible Patient's name, or
 - b) Upon receipt of a prescription ordered during normal business hours of the QE by telephone, facsimile or electronic transmission on behalf of an Eligible Patient by a legally qualified health care provider.
 - c) County of Clackamas will furnish lists to Pharmacy of all Eligible Patients and eligible prescribers and will update the lists to reflect any changes.
- 6) **Pharmacy Services.** Pharmacy shall provide the following services (with assistance from RXS where necessary or requested):
 - a) Dispensing Covered Drugs to Eligible Patients in accordance with all applicable State and Federal statutes and regulations and the professional judgment of the dispensing pharmacist;
 - b) Participating in all pre- and post-adjudication programs as directed by County of Clackamas or RXS as well as all data collection or auditing programs, plans and procedures as may be of assistance to County of Clackamas or RXS in order to establish or verify costs, charges, reimbursement rates, billing, payments or receipts;
 - c) Participating in third party payer arrangements in which the QE participates or which the QE may request. Pharmacy shall make all best efforts to enter into all such third party payer arrangements prior to the Commencement Date;
 - d) Maintaining all records and reports (including without limitation, prescription files, velocity reports and records of ordering and receipt) required under this Agreement, Section 340B, and by any applicable Federal and State law and regulations, which shall be separate from Pharmacy's own operations and records, and shall be accessible to County of Clackamas, DHHS and the manufacturer/wholesaler in the case of audit. Such records shall be retained for not less than five

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years after the Pharmacy Services are rendered, and shall be available for inspection or audit by County of Clackamas and as otherwise permitted by law and this Agreement;

- e) No drug substitutions other than those directed by the manufacturer will be made without the consent of the QP;
 - f) Conducting Eligible Patient drug utilization review;
 - g) Conducting formulary maintenance, including providing drug-related information services to County of Clackamas clinical personnel, consulting with County of Clackamas on the purchase of Covered Drugs, and identifying and disposing of Covered Drugs in its inventory which are out of date;
 - h) Maintaining Eligible Patient drug profiles;
 - i) Counseling and advising Eligible Patients consistent with the rules, limitations, and privileges incident to the pharmacy-patient relationship; and
 - j) Determining if a particular Eligible Patient is covered by a governmental or private insurance program, and if covered, will obtain the necessary authorization(s) or benefit payment for Covered Drugs.
- 7) **Relationship of the Parties.** Pharmacy is an independent contractor and shall be solely responsible for its acts and omissions regarding advice and services it is required to provide to Eligible Patients and County of Clackamas. Pharmacy agrees to render all services provided under this Agreement in accordance with professional standards applicable to pharmacy services and in accordance with rules and regulations of the State Board of Pharmacy. Pharmacy shall have the right to refuse to serve any Eligible Patient where such service would violate any statute, regulations, or professional standards applicable to pharmacy services. Pharmacy shall notify County of Clackamas of any refusal of service within twenty-four (24) hours of such refusal.
- i) Pharmacy understands and acknowledges that RXS has been engaged by County of Clackamas to manage pharmacy services and the relationship with Pharmacy. Accordingly, Pharmacy acknowledges that RXS is and will act as agent for County of Clackamas. All obligations, duties, functions or tasks of County of Clackamas as described herein may be carried out by RXS, as agent for County of Clackamas. Unless advised to the contrary, Pharmacy shall provide all reports required hereunder to RXS, as agent for County of Clackamas, and shall seek assistance from RXS, not County of Clackamas, for all problems and issues regarding the services, duties and obligations hereunder.
- 8) **Pharmacy Site.** Pharmacy agrees it will provide Pharmacy Services contracted for under this Agreement at the sites listed in Exhibit B.
- 9) **Payment for Services.** Pharmacy shall be paid for Pharmacy Services in accordance with the terms provided on Attachment B to this Agreement. County of Clackamas and Pharmacy have freely negotiated the terms of this Agreement and neither has offered or received any inducement or other consideration from the other party for entering into this Agreement. The compensation to be paid to Pharmacy is consistent with fair market value in arms-length transactions for Pharmacy Services and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under a Federal or State health care program. Nothing in this Agreement shall be construed to require County of Clackamas to make referrals of patients to Pharmacy.
- 10) **Patient Choice.** Pharmacy understands and agrees that Eligible Patients of County of Clackamas may elect not to use Pharmacy for Pharmacy Services. In the event that an Eligible Patient elects not to use

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Pharmacy for such services, the patient may obtain the prescription from the prescriber and then obtain the drug(s) from the pharmacy provider of his or her choice.

11) **Quarterly Reports and Financial/Operational Reviews.**

- a) RXS with the assistance of the Pharmacies shall provide County of Clackamas with quarterly financial statements, a detailed status report of collections, and a summary of receiving and dispensing records in a form satisfactory to County of Clackamas. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for any reason.
- b) RXS, County of Clackamas and Pharmacy will review the financial and operational performance of the 340B program via on-site or web based meetings on the following schedule:
 - i) After the first 90 days of operation
 - ii) Annually on or near the anniversary of the commencement of operations
- c) Topics of discussion and review in the financial/operational review will include; but, not be limited to: review of dispensing fees; total prescription volume processed in the program; brand and generic mix of prescriptions processed; inventory management and replenishment; financial viability of the program; and, any other topics the parties agree upon.

12) **Prohibition on Resale or Transfer.** Pharmacy agrees that it will not resell or transfer a Covered Drug ordered under this Agreement pursuant to Section 340B to an individual who is not an Eligible Patient of County of Clackamas. Pharmacy further agrees that, in the event of transfer, diversion, or resale of a Covered Drug in violation of this Agreement, it will pay County of Clackamas an amount equal to the price discount County of Clackamas received from the manufacturer/wholesaler so that the QE can reimburse the manufacturer/wholesaler as provided in Section 4. For purposes of this provision, the QE's determination of the amount of the discount on a Covered Drug payable to the manufacturer shall be conclusive.

- a) County of Clackamas agrees that it will not resell or transfer a Covered Drug to an individual who is not an Eligible Patient.

13) **Audits.**

- a) Pharmacy understands and agrees that both Pharmacy and County of Clackamas are subject to audit by DHHS and by drug manufacturers who have signed a drug purchasing agreement with DHHS, which audits may pertain to the QE's compliance with the prohibition on drug resale or transfer and the prohibition on duplicate Medicaid rebates and discounts. Pharmacy further understands that the DHHS has published proposed guidelines for such audits, a copy of which is attached hereto as Attachment C. Pharmacy agrees to cooperate with such audits and to comply with applicable provisions of the audit guidelines and amendments thereto that may be published from time to time.
- b) Pharmacy grants RXS the right, on behalf of the QE to audit its books and records (including all electronic records) using any reasonable means to verify and ensure compliance with the duties, obligations and transactions outlined hereunder. Pharmacy agrees to use its best efforts to cooperate with such audits in good faith.
- c) The provisions of this Section 13 shall survive the expiration or termination of this Agreement for any reason.
- d) Copies of this agreement may be provided to the Office of Pharmacy Affairs upon request.

Initials: _____

Initials: _____

- 14) **Inspection by Manufacturer.** Pharmacy and County of Clackamas understand and agree that a copy of this Pharmacy Services Agreement will be provided, upon request, to a drug manufacturer who has signed a purchasing agreement with DHHS and sells Covered Drugs to County of Clackamas. In the event either party receives such a request, it shall immediately inform the other party and each party shall then have the opportunity to delete any information in this Agreement and attachments which it considers to be proprietary and confidential prior to submitting the Agreement to the requesting manufacturer. The provisions of this Section 14 shall survive the expiration or termination of this Agreement for any reason.
- 15) **Insurance.** Pharmacy shall maintain during the term of this Agreement a policy of liability insurance with a responsible insurance carrier in an amount not less than \$100,000 per incident and which includes the Covered Drugs in its coverage.
- 16) **Indemnification.** Pharmacy agrees to indemnify and hold County of Clackamas and RXS harmless from any loss, damage or cost (including reasonable attorney fees) it may incur as a result of any wrongful acts or omission of Pharmacy with respect to this Agreement. County of Clackamas agrees to indemnify and hold Pharmacy harmless from any loss, damage or cost (including reasonable attorney fees) it may incur as a result of any wrongful acts or omissions of County of Clackamas with respect to this Agreement.
- 17) **Non-Assignment.** This Agreement may not be assigned by either party without the prior written agreement of the other party and RXS.
- 18) **Term and Termination.**
- a) This Agreement shall commence on _____, 201__ (the "Commencement Date"), and shall continue in effect for 3 years from the Commencement Date. Thereafter, this Agreement shall automatically renew for consecutive one (1) year periods until terminated as provided below.
 - b) This Agreement may be terminated by either party as follows for any one of the provisions listed:
 - i) Mutual agreement of the parties.
 - ii) Sixty (60) days prior written notice by either party without cause.
 - iii) Termination or expiration of the QE and RxStrategies agreement.
 - iv) County of Clackamas, immediately and without prior notice, upon a material breach of this Agreement by Pharmacy. Without limiting County of Clackamas's right to assert any other act or failure to act as constituting a material breach by Pharmacy, Pharmacy's dispensing of a Covered Drug to an individual who is not an Eligible Patient or any other diversion of a Covered Drug shall be deemed to be a material breach. County of Clackamas's waiver or failure to take action with respect to Pharmacy's failure to comply with any term or provision of this Agreement shall not be deemed to be a waiver of County of Clackamas's right to insist on future compliance with such term or provision.
 - c) Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, to the parties at the addresses set forth on the signature pages hereto. Notice shall be effective on the day it is mailed.
 - d) Upon the request of County of Clackamas, Pharmacy agrees to continue to provide Pharmacy Services for a period of up to sixty (60) days after the date this Agreement expires or is terminated in order to ensure an effective transition of services and continuation of quality care for Eligible Patients.

Initials: _____

Initials: _____

- 19) **Compliance with Laws.** The parties hereto shall comply with all applicable federal, state and local laws, rules, regulations and requirements. County of Clackamas shall comply with all rules and regulations governing its Health Resources and Service Administration grant funding.
- 20) **Choice of Law.** This Agreement shall be interpreted according to the laws of the State of Oregon.
- 21) **Representations of Pharmacy.** Pharmacy represents that:
- a) it employs, and will continue to employ throughout the term of this Agreement, sufficient qualified and credentialed personnel needed to manage and operate the Pharmacy and provide the services anticipated hereunder in a timely, professional, competent and ethical manner;
 - b) it owns, possesses and employs, and will continue to employ throughout the term of this Agreement, sufficient technology and equipment as needed to manage and operate the Pharmacy and provide the services in the manner anticipated hereunder;
 - c) it will render the services hereunder in accordance with prevailing pharmaceutical and medical standards that are applied the same fashion to all patients of County of Clackamas;
 - d) it will render all services to Eligible Patients without regard to race, creed, color, age, sex, sexual orientation, citizenship, marital status, veteran status, national origin, disability, religion, arrest record or other protected status;
 - e) it will not use drugs purchased under Section 340B to dispense Medicaid prescriptions, except as provided in an arrangement with the State Medicaid agency as approved by County of Clackamas to prevent duplicate discounting;
 - f) all of its employees, agents, representatives and members of its workforce, whose services may be used to fulfill obligations under this Agreement are or shall be appropriately informed of the terms of this Agreement and are under legal obligation to Pharmacy, by contract or otherwise, sufficient to enable Pharmacy to fully comply with all provisions of this Agreement including, without limitation, the requirement that modifications or limitations that County of Clackamas has agreed to adhere to with regards to the use and disclosure of Protected Health Information of any individual that materially affects and/or limits the uses and disclosures that are otherwise permitted will be communicated to Pharmacy, in writing, and in a timely fashion;
 - g) it will reasonably cooperate with County of Clackamas in the performance of the mutual obligations under this Agreement;
 - h) the execution and delivery of this Agreement and the performance of the duties obligations and transactions contemplated do not and will not contravene, conflict with or violate any agreement, commitment, plan or instrument binding on Pharmacy, including without limitation any participating provider agreement and any third party payer or pharmacy benefit management agreement; and
 - i) it, nor its shareholders, members, directors, officers, agents, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including

Initials: _____

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the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, state or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. Each Party further agrees to notify the other Party immediately after the Party becomes aware that any of the foregoing representation and warranties may be inaccurate or may become incorrect and upon notice that the Party is being investigated in connection with any federal or state healthcare program.

22) **Confidentiality Compliance**

a) Definitions:

- i) "Designated Record Set" shall have the meaning set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended, or revised.
- ii) "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.
- iii) "Privacy Officer" shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a) (1), as such provision is currently drafted and as it is subsequently updated, amended or revised.
- iv) "Protected Health Information" shall have the meaning as set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.

b) Pharmacy may:

- i) use the Protected Health Information in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Pharmacy provided that such uses are permitted under state and federal confidentiality laws.
- ii) disclose the Protected Health Information in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of Pharmacy, provided that Pharmacy represents to County of Clackamas, in writing, that (i) the disclosures are required by law, as provided for in 45 C.F.R. § 164.501 or (ii) Pharmacy has received from the third party written assurances regarding its confidential handling of such Protected Health Information as required under 45 C.F.R. § 164.504(e)(4).
- iii) aggregate the Protected Health Information in its possession with the Protected Health Information of other covered entities that Pharmacy has in its possession through its capacity as a business associate to said other covered entities provided that the purpose of such aggregation is to provide County of Clackamas with data analyses relating to the Health Care Operations of County of Clackamas. Under no circumstances may Pharmacy disclose Protected Health Information of one covered entity to another covered entity absent the explicit authorization of County of Clackamas.
- iv) de-identify any and all Protected Health Information provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b), and further provided that County of Clackamas maintains the documentation required by 45 C.F.R. § 164.514(b) which may be in the form of a

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written assurance from Pharmacy, Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this Agreement.

- c) Responsibilities of Pharmacy with respect to Protected Health Information. With regard to its use and/or disclosure of Protected Health Information, Pharmacy hereby agrees to do the following:
- i) use and/or disclose the Protected Health Information only as permitted or required by this Agreement or as otherwise required by law.
 - ii) report to the designated Privacy Officer of County of Clackamas, in writing, any use and/or disclosure of the Protected Health Information that is not permitted or required by this Agreement of which Pharmacy becomes aware within 5 business days of Pharmacy discovery of such unauthorized use and/or disclosure.
 - iii) establish procedures for mitigating, to the greatest extent possible, any deleterious effects from any improper use and/or disclosure of Protected Health Information that Pharmacy reports to County of Clackamas.
 - iv) use commercially reasonable efforts to maintain the security of the Protected Health Information and to prevent unauthorized use and/or disclosure of such Protected Health Information.
 - v) require all of its subcontractors and agents that receive or use, or have access to, Protected Health Information under this Agreement to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of Protected Health Information that apply to Pharmacy pursuant to this Agreement.
 - vi) make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to the Secretary of the Department of Health and Human Services for purposes of determining County of Clackamas's compliance with the Privacy Regulation, subject to attorney-client and other applicable legal privileges.
 - vii) upon prior written request, make available during normal business hours at Pharmacy offices all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to County of Clackamas within 10 business days for purposes of enabling County of Clackamas to determine Pharmacy compliance with the terms of this Agreement.
 - viii) within 45 days of receiving a written request from County of Clackamas, provide to County of Clackamas such information as is requested by QE to permit QE to respond to a request by an individual for an accounting of the disclosures of the individual's Protected Health Information in accordance with 45 C.F.R. § 164.528.
 - ix) except as required by state or federal law, return to County of Clackamas or destroy, within 5 business days of the termination of this Agreement, the Protected Health Information in its possession and retain no copies (which for purposes of this Agreement shall mean destroy all backup tapes).
 - x) disclose to its subcontractors, agents or other third parties, and request from QE, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.

Initials: _____

Initials: _____

- d) Responsibilities of County of Clackamas with respect to Protected Health Information. With regard to the use and/or disclosure of Protected Health Information by Pharmacy, County of Clackamas hereby agrees:
- i) to inform Pharmacy of any changes in the form of notice of privacy practices (the "Notice") that County of Clackamas provides to individuals pursuant to 45 C.F.R. §164.520, and to provide Pharmacy a copy of the Notice currently in use.
 - ii) to inform Pharmacy of any changes in, or withdrawal of, the consent or authorization provided to County of Clackamas by individuals pursuant to 45 C.F.R. §164.506 or §164.508.
 - iii) to inform Pharmacy of any opt-outs exercised by any individual from marketing and/or fundraising activities of County of Clackamas pursuant to 45 C.F.R. § 164.514(e) and (f).
 - iv) to notify Pharmacy, in writing and in a timely manner, of any arrangements permitted or required of County of Clackamas under 45 C.F.R. Parts 160 and 164 that may impact in any manner the use and/or disclosure of Protected Health Information by Pharmacy under this Agreement, including, but not limited to, restrictions on use and/or disclosure of Protected Health Information as provided for in 45 C.F.R. § 164.522 agreed to by County of Clackamas.
 - v) that Pharmacy may make any use and/or disclosure of Protected Health Information permitted under 45 C.F.R. § 164.512 except uses or disclosure for research is not permitted without prior approval by County of Clackamas.
- e) Survival of Obligations. The rights and obligations set forth in this Section 22 shall survive the termination of this Agreement.

23) Non-disclosure/Non-solicitation.

- a) Non-disclosure. In the course of performing under this Agreement, Pharmacy may receive, be exposed to or acquire Confidential Information including but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer data base or computer readable form, as well as any information identified as confidential of the QE or RXS ("Confidential Information"). Without limiting the foregoing, Pharmacy acknowledges and agrees that this Agreement, including the pricing terms of this Agreement, constitutes Confidential Information. For purposes of this Agreement, Confidential Information shall not include Protected Health Information, the security of which is the subject of this Agreement and is provided for elsewhere. Pharmacy including its employees, agents or representatives (i) shall not disclose to any third party the Confidential Information except as otherwise permitted by this Agreement, (ii) only permit use of such Confidential Information by employees, agents and representatives having a need to know in connection with performance under this Agreement, and (iii) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential. Notwithstanding anything to the contrary herein, each Party shall be free to use, for its own business purposes, any ideas, suggestions, concepts, know-how or techniques contained in information received from each other that directly relates to the performance under this Agreement. This provision shall not apply to Confidential Information: (1) after it becomes publicly available through no fault of either Party; (2) which is later publicly released by either Party in writing; (3) which is lawfully obtained from third parties without restriction; or (4) which can be shown to be previously known or developed by either Party independently of the other Party.
- b) Non-solicitation. During the term of this Agreement and for one (1) year after the termination thereof the Pharmacy will not hire, seek to hire or assist in hiring any employee, agent or independent

Initials: _____

Initials: _____

contractor of County of Clackamas or of RXS or induce or seek to induce or take action which results in the termination of employment or other arrangements between County of Clackamas or RXS, and such employee, agent or independent contractor or otherwise interferes with such employment or contractual arrangements.

- c) **Enforcement.** Pharmacy acknowledges and agrees that any breach by it of any of the provisions of Sections 23(a) or 23(b) (the "Restrictive Covenants") would result in irreparable injury and damage for which money damages would not provide an adequate remedy. Therefore, if the Pharmacy breaches, or threatens to commit a breach of, any of the Restrictive Covenants, County of Clackamas shall have the right and remedy (upon compliance with any necessary prerequisites imposed by law upon the availability of such remedy), which shall be independent and severally enforceable, and which shall be in addition to, and not in lieu of, any other rights and remedies available to County of Clackamas under law or in equity (including, without limitation, the recovery of damages), to have the Restrictive Covenants specifically enforced (without posting bond and without the need to prove damages) by any court having equity jurisdiction, including, without limitation, the right to an entry against Pharmacy of restraining orders and injunctions (preliminary, mandatory, temporary and permanent), without posting bond and without the need to prove damages, against violations, threatened or actual, and whether or not then continuing, of such covenants. The existence of any claim or cause of action by Pharmacy, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of the Restrictive Covenants. In addition, any breach of the Restrictive Covenants shall constitute a material breach of this Agreement.

- 24) **Entire Agreement.** This Agreement represents the entire understanding of the parties. There are no other agreements or understandings between the parties, either oral or written, relating to Covered Drugs. Any amendments to this Agreement shall be in writing and signed by both parties

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

Initials: _____

Initials: _____

Genoa Healthcare, LLC

By: _____

Name: _____

Its: _____

Owner, President, Officer Title

State License No. _____

Federal DEA No. _____

Address: _____

County of Clackamas

By: _____

Name: _____

Its: _____

Owner, President, Officer Title

Initials: _____

Initials: _____

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Service Agreement with Genoa (Hilltop) partnering
with Clackamas County Health Centers Division
in participation with 340B Pharmacy Services Agreement

Purpose/Outcomes	The intent of the Service Agreement is to facilitate Clackamas County Health Centers Division (CCHCD) participation in the 340B drug program.
Dollar Amount and Fiscal Impact	The Agreement has no maximum value as it will generate revenue for Clackamas County's Federally Qualified Health Center (FQHC). This will enter CCHCD and Genoa into a "ship to/bill to" arrangement wherein Genoa will dispense prescription drugs on behalf of CCHCD and then charge and collect fees for such drugs.
Funding Source	No County General Funds are involved. This is revenue generating through the 340B Drug Program.
Duration	Effective upon signature and terminates with the Third Party Drug Administrator Agreement (RxStrategies, 6/30/23).
Strategic Plan Alignment	1. Provide patient-centered health center services to vulnerable populations so they can experience improved health. 2. Ensure safe, health and secure communities
Previous Board Action	There has been no previous board action on this item.
Contact Person	Deborah Cockrell, FQHC Director – 503-742-5495
Contract No.	9003

BACKGROUND:

The Clackamas County Health Centers Division (CCHCD) requests the approval of a Service Agreement for the transition of the Third Party Administrator (TPA) of the 340B Program managed by CCHCD. The incumbent is NEC Networks, and will be replaced with RxStrategies. The TPA manages the prescription drug virtual inventory of various pharmacies utilized by CCHCD. This agreement reflects the TPA change for the Genoa Hilltop pharmacy location. Participation in the 340B Drug Program allows the purchase of prescription drugs for CCHCD patients at favorable discounts from drug manufacturers. Selection of RxStrategies replacing NEC Networks was done through a competitive RFP that was awarded on January 11, 2018. County Counsel reviewed and approved this agreement on August 30, 2018.

This Agreement is effective upon signature and continues through June 30, 2023,
(termination of the Third Party Administrator Agreement, RxStrategies).

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", is written over the printed name and title.

Richard Swift, Director
Health, Housing, and Human Services

PHARMACY SERVICE AGREEMENT

#9003

THIS AGREEMENT is made this ___ day of _____, 201___, by and between *County of Clackamas*, a Oregon City nonprofit corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, (hereinafter “(Qualified Entity)” or “County of Clackamas”) and, Genoa A QOL Healthcare Company, LLC, with licensed pharmacies located at the locations shown in Exhibit B. (hereinafter “Pharmacies”).

WHEREAS, County of Clackamas is a “Covered Entity” as defined in Section 340B of the Public Health Service Act (hereinafter “Section 340B”) and is eligible to purchase certain outpatient drugs at reduced prices for use by Eligible Patients, as defined in this Agreement, from drug manufacturers who have signed a drug purchasing agreement with the United States Department of Health and Human Services (hereinafter “DHHS”) and/or the manufacturers’ wholesalers;

WHEREAS, County of Clackamas provides health care services to Eligible Patients at the sites listed in Exhibit A (the “QE Site”);

WHEREAS, County of Clackamas has engaged RxStrategies, Inc. (“RXS”) to manage the pharmacy services and pharmacy relationship of County of Clackamas,

WHEREAS, the system, procedures and processes of RXS (past, current and future) remain the sole property of RXS and cannot be used by the County of Clackamas and/or the Pharmacy independent of this agreement in perpetuity without the written consent of RXS,

WHEREAS, Pharmacy is duly licensed as a pharmacy in the State of *Oregon* and

WHEREAS, County of Clackamas desires to engage Pharmacy to provide Pharmacy Services, as defined in this Agreement, to Eligible Patients on behalf of Qualified Entity with respect to outpatient drugs purchased pursuant to Section 340B.

NOW, THEREFORE, the parties agree as follows:

- 1) **Eligible Patients**. An individual will be considered an Eligible Patient under this Agreement if the following conditions are met:
 - a) County of Clackamas has established a relationship with the individual, such that County of Clackamas maintains records of the individual’s health care;
 - b) The individual receives health care services from a health care professional who is either employed by County of Clackamas or under contract with County of Clackamas such that responsibility for the care remains with QE;
 - c) The individual receives a health care service or range of services from County of Clackamas which is consistent with the service or range of services for which grant funding, listed in Section 340B, or Federally qualified health County of Clackamas look-alike status has been granted County of Clackamas; and
 - d) The individual receives health care services at the County of Clackamas Site.

Initials: _____

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- i) An individual will not be considered an Eligible Patient if the only health care service provided by County of Clackamas to the individual is the dispensing of a drug or drugs for subsequent self-administration or administration in the home setting. Notwithstanding the foregoing, individuals registered in a State operated or funded AIDS drug purchasing assistance program receiving financial assistance under Title XXVI of the Public Health Services Act are considered Eligible Patients.
 - e) The patient is not eligible for the 340B program if the individual is part of a fee for service Medicaid program provided by the State; or, any other program the is deemed ineligible for the 340B program as specified by law, statute or administrative ruling.
- 2) **Covered Drugs.** The prescription outpatient drugs covered by this Agreement (hereinafter “Covered Drugs”) are listed on Attachment A of this Agreement. The parties agree that County of Clackamas may add or remove Covered Drugs from Attachment A at its sole discretion during the life of this Agreement. Drug substitution may only be made in compliance with an approved substitution notice from the manufacturer.
- 3) **Purchases, Shipment and Pricing of Drugs.**
- a) Pharmacy shall maintain sufficient supplies of such drugs to meet the day-to-day needs of Eligible Patients. County of Clackamas will replenish Pharmacy’s inventory for Covered Drugs dispensed to Eligible Patients for which payment under this Agreement was received by Pharmacy. County of Clackamas reserves the right to make appropriate substitutions of drugs as required by the manufacturer. County of Clackamas shall arrange to be billed directly for Covered Drugs by the manufacturer/wholesaler(s), and arrange for shipment of such drugs directly to the Pharmacy or the designated warehouse of the Pharmacy as requested by the pharmacy. Replenished drugs that are in “overstock” status remain the property of the QE. County of Clackamas, through RXS, shall establish all retail prices for Covered Drugs for all Eligible Patients as provided in Attachment A, which may be amended from time to time by County of Clackamas.
 - b) In order to facilitate the timeliness of the inventory replenishment process and ensure that drug replenishment is consistent with current and historical practices of the Pharmacy, Pharmacy shall provide, if requested by RXS, the following documentation and information to RXS upon execution of this Agreement:
 - i) Identification of all pharmaceutical wholesalers;
 - ii) Velocity reports for the most recent past three-month period from all wholesalers;
 - iii) List of inventory items by NDC with Usual and Customary prices;
 - iv) List of Pharmacy’s third party payer agreements with provider numbers and evidence of Medicaid and Medicare participation;
 - v) A description of the Pharmacy’s computer and communication equipment, including computers, printers, fax machines, number of telephone lines, Internet connectivity, e-mail pharmacy software version and release, and how drug database updates are handled and by whom; and
 - vi) Such other documentation and information as reasonably requested by RXS in support of the 340B program addressed in this agreement.
 - c) If at the end of any 120-day period after a drug has been dispensed, the QE is unable to replenish the dispensed drug to the Pharmacy, the QE will reimburse the Pharmacy for the cost of the drug

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dispensed at the documented cost of the drug to the Pharmacy. If the Pharmacy cannot produce appropriate documentation (e.g., invoice from wholesaler or manufacturer) for the cost of the drug, then the QE will reimburse the Pharmacy at the prevailing 340B price.

- d) At the termination of the Agreement, the contract pharmacy must attest to the QE that all 340B drugs in inventory in excess of requirement ("Overstock") have been destroyed and therefore cannot be used in general commerce. Written notification of the destruction will be provided to the QE.
- 4) **Tracking System.** The parties to this Agreement understand that, pursuant to Section 340B, County of Clackamas is liable to the manufacturer of Covered Drugs in an amount equal to the reduction in the price of Covered Drugs in the event that a discounted Covered Drug is sold or otherwise transferred to a person who is not an Eligible Patient. County of Clackamas shall establish and maintain a tracking system suitable to prevent the diversion of Covered Drugs to individuals who are not Eligible Patients. County of Clackamas will establish a process for periodic random (sample) comparison of its prescribing records with Pharmacy's dispensing records to detect potential irregularities. Said comparison will be conducted quarterly and comparison of purchasing and dispensing records will be performed every six months.
- a) Pharmacy agrees to use the provider identified by RXS for pre-adjudication of all claims. Pharmacy agrees to make any and all adjustments to purchasing and dispensing records that County of Clackamas advises are reasonably necessary to prevent diversion of Covered Drugs to individuals who are not Eligible Patients.
- 5) **Prescriptions.** Pharmacy shall dispense Covered Drugs only in the following circumstances:
- a) Upon presentation of a prescription form bearing an eligible prescriber's name, the Eligible Patient's name, or
 - b) Upon receipt of a prescription ordered during normal business hours of the QE by telephone, facsimile or electronic transmission on behalf of an Eligible Patient by a legally qualified health care provider.
 - c) County of Clackamas will furnish lists to Pharmacy of all Eligible Patients and eligible prescribers and will update the lists to reflect any changes.
- 6) **Pharmacy Services.** Pharmacy shall provide the following services (with assistance from RXS where necessary or requested):
- a) Dispensing Covered Drugs to Eligible Patients in accordance with all applicable State and Federal statutes and regulations and the professional judgment of the dispensing pharmacist;
 - b) Participating in all pre- and post-adjudication programs as directed by County of Clackamas or RXS as well as all data collection or auditing programs, plans and procedures as may be of assistance to County of Clackamas or RXS in order to establish or verify costs, charges, reimbursement rates, billing, payments or receipts;
 - c) Participating in third party payer arrangements in which the QE participates or which the QE may request. Pharmacy shall make all best efforts to enter into all such third party payer arrangements prior to the Commencement Date;
 - d) Maintaining all records and reports (including without limitation, prescription files, velocity reports and records of ordering and receipt) required under this Agreement, Section 340B, and by any applicable Federal and State law and regulations, which shall be separate from Pharmacy's own operations and records, and shall be accessible to County of Clackamas, DHHS and the manufacturer/wholesaler in the case of audit. Such records shall be retained for not less than five

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Initials: _____

years after the Pharmacy Services are rendered, and shall be available for inspection or audit by County of Clackamas and as otherwise permitted by law and this Agreement;

- e) No drug substitutions other than those directed by the manufacturer will be made without the consent of the QE;
 - f) Conducting Eligible Patient drug utilization review;
 - g) Conducting formulary maintenance, including providing drug-related information services to County of Clackamas clinical personnel, consulting with County of Clackamas on the purchase of Covered Drugs, and identifying and disposing of Covered Drugs in its inventory which are out of date;
 - h) Maintaining Eligible Patient drug profiles;
 - i) Counseling and advising Eligible Patients consistent with the rules, limitations, and privileges incident to the pharmacy-patient relationship; and
 - j) Determining if a particular Eligible Patient is covered by a governmental or private insurance program, and if covered, will obtain the necessary authorization(s) or benefit payment for Covered Drugs.
- 7) **Relationship of the Parties.** Pharmacy is an independent contractor and shall be solely responsible for its acts and omissions regarding advice and services it is required to provide to Eligible Patients and County of Clackamas. Pharmacy agrees to render all services provided under this Agreement in accordance with professional standards applicable to pharmacy services and in accordance with rules and regulations of the State Board of Pharmacy. Pharmacy shall have the right to refuse to serve any Eligible Patient where such service would violate any statute, regulations, or professional standards applicable to pharmacy services. Pharmacy shall notify County of Clackamas of any refusal of service within twenty-four (24) hours of such refusal.
- i) Pharmacy understands and acknowledges that RXS has been engaged by County of Clackamas to manage pharmacy services and the relationship with Pharmacy. Accordingly, Pharmacy acknowledges that RXS is and will act as agent for County of Clackamas. All obligations, duties, functions or tasks of County of Clackamas as described herein may be carried out by RXS, as agent for County of Clackamas. Unless advised to the contrary, Pharmacy shall provide all reports required hereunder to RXS, as agent for County of Clackamas, and shall seek assistance from RXS, not County of Clackamas, for all problems and issues regarding the services, duties and obligations hereunder.
- 8) **Pharmacy Site.** Pharmacy agrees it will provide Pharmacy Services contracted for under this Agreement at the sites listed in Exhibit B.
- 9) **Payment for Services.** Pharmacy shall be paid for Pharmacy Services in accordance with the terms provided on Attachment B to this Agreement. County of Clackamas and Pharmacy have freely negotiated the terms of this Agreement and neither has offered or received any inducement or other consideration from the other party for entering into this Agreement. The compensation to be paid to Pharmacy is consistent with fair market value in arms-length transactions for Pharmacy Services and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under a Federal or State health care program. Nothing in this Agreement shall be construed to require County of Clackamas to make referrals of patients to Pharmacy.
- 10) **Patient Choice.** Pharmacy understands and agrees that Eligible Patients of County of Clackamas may elect not to use Pharmacy for Pharmacy Services. In the event that an Eligible Patient elects not to use

Initials: _____

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Pharmacy for such services, the patient may obtain the prescription from the prescriber and then obtain the drug(s) from the pharmacy provider of his or her choice.

11) **Quarterly Reports and Financial/Operational Reviews.**

- a) RXS with the assistance of the Pharmacies shall provide County of Clackamas with quarterly financial statements, a detailed status report of collections, and a summary of receiving and dispensing records in a form satisfactory to County of Clackamas. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for any reason.
- b) RXS, County of Clackamas and Pharmacy will review the financial and operational performance of the 340B program via on-site or web based meetings on the following schedule:
 - i) After the first 90 days of operation
 - ii) Annually on or near the anniversary of the commencement of operations
- c) Topics of discussion and review in the financial/operational review will include; but, not be limited to: review of dispensing fees; total prescription volume processed in the program; brand and generic mix of prescriptions processed; inventory management and replenishment; financial viability of the program; and, any other topics the parties agree upon.

12) **Prohibition on Resale or Transfer.** Pharmacy agrees that it will not resell or transfer a Covered Drug ordered under this Agreement pursuant to Section 340B to an individual who is not an Eligible Patient of County of Clackamas. Pharmacy further agrees that, in the event of transfer, diversion, or resale of a Covered Drug in violation of this Agreement, it will pay County of Clackamas an amount equal to the price discount County of Clackamas received from the manufacturer/wholesaler so that the QE can reimburse the manufacturer/wholesaler as provided in Section 4. For purposes of this provision, the QE's determination of the amount of the discount on a Covered Drug payable to the manufacturer shall be conclusive.

- a) County of Clackamas agrees that it will not resell or transfer a Covered Drug to an individual who is not an Eligible Patient.

13) **Audits.**

- a) Pharmacy understands and agrees that both Pharmacy and County of Clackamas are subject to audit by DHHS and by drug manufacturers who have signed a drug purchasing agreement with DHHS, which audits may pertain to the QE's compliance with the prohibition on drug resale or transfer and the prohibition on duplicate Medicaid rebates and discounts. Pharmacy further understands that the DHHS has published proposed guidelines for such audits, a copy of which is attached hereto as Attachment C. Pharmacy agrees to cooperate with such audits and to comply with applicable provisions of the audit guidelines and amendments thereto that may be published from time to time.
- b) Pharmacy grants RXS the right, on behalf of the QE to audit its books and records (including all electronic records) using any reasonable means to verify and ensure compliance with the duties, obligations and transactions outlined hereunder. Pharmacy agrees to use its best efforts to cooperate with such audits in good faith.
- c) The provisions of this Section 13 shall survive the expiration or termination of this Agreement for any reason.
- d) Copies of this agreement may be provided to the Office of Pharmacy Affairs upon request.

Initials: _____

Initials: _____

- 14) **Inspection by Manufacturer.** Pharmacy and County of Clackamas understand and agree that a copy of this Pharmacy Services Agreement will be provided, upon request, to a drug manufacturer who has signed a purchasing agreement with DHHS and sells Covered Drugs to County of Clackamas. In the event either party receives such a request, it shall immediately inform the other party and each party shall then have the opportunity to delete any information in this Agreement and attachments which it considers to be proprietary and confidential prior to submitting the Agreement to the requesting manufacturer. The provisions of this Section 14 shall survive the expiration or termination of this Agreement for any reason.
- 15) **Insurance.** Pharmacy shall maintain during the term of this Agreement a policy of liability insurance with a responsible insurance carrier in an amount not less than \$100,000 per incident and which includes the Covered Drugs in its coverage.
- 16) **Indemnification.** Pharmacy agrees to indemnify and hold County of Clackamas and RXS harmless from any loss, damage or cost (including reasonable attorney fees) it may incur as a result of any wrongful acts or omission of Pharmacy with respect to this Agreement. County of Clackamas agrees to indemnify and hold Pharmacy harmless from any loss, damage or cost (including reasonable attorney fees) it may incur as a result of any wrongful acts or omissions of County of Clackamas with respect to this Agreement.
- 17) **Non-Assignment.** This Agreement may not be assigned by either party without the prior written agreement of the other party and RXS.
- 18) **Term and Termination.**
- a) This Agreement shall commence on _____, 201__ (the "Commencement Date"), and shall continue in effect for 3 years from the Commencement Date. Thereafter, this Agreement shall automatically renew for consecutive one (1) year periods until terminated as provided below.
 - b) This Agreement may be terminated by either party as follows for any one of the provisions listed:
 - i) Mutual agreement of the parties.
 - ii) Sixty (60) days prior written notice by either party without cause.
 - iii) Termination or expiration of the QE and RxStrategies agreement.
 - iv) County of Clackamas, immediately and without prior notice, upon a material breach of this Agreement by Pharmacy. Without limiting County of Clackamas's right to assert any other act or failure to act as constituting a material breach by Pharmacy, Pharmacy's dispensing of a Covered Drug to an individual who is not an Eligible Patient or any other diversion of a Covered Drug shall be deemed to be a material breach. County of Clackamas's waiver or failure to take action with respect to Pharmacy's failure to comply with any term or provision of this Agreement shall not be deemed to be a waiver of County of Clackamas's right to insist on future compliance with such term or provision.
 - c) Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, to the parties at the addresses set forth on the signature pages hereto. Notice shall be effective on the day it is mailed.
 - d) Upon the request of County of Clackamas, Pharmacy agrees to continue to provide Pharmacy Services for a period of up to sixty (60) days after the date this Agreement expires or is terminated in order to ensure an effective transition of services and continuation of quality care for Eligible Patients.

Initials: _____

Initials: _____

- 19) **Compliance with Laws.** The parties hereto shall comply with all applicable federal, state and local laws, rules, regulations and requirements. County of Clackamas shall comply with all rules and regulations governing its Health Resources and Service Administration grant funding.
- 20) **Choice of Law.** This Agreement shall be interpreted according to the laws of the State of Oregon.
- 21) **Representations of Pharmacy.** Pharmacy represents that:
- a) it employs, and will continue to employ throughout the term of this Agreement, sufficient qualified and credentialed personnel needed to manage and operate the Pharmacy and provide the services anticipated hereunder in a timely, professional, competent and ethical manner;
 - b) it owns, possesses and employs, and will continue to employ throughout the term of this Agreement, sufficient technology and equipment as needed to manage and operate the Pharmacy and provide the services in the manner anticipated hereunder;
 - c) it will render the services hereunder in accordance with prevailing pharmaceutical and medical standards that are applied the same fashion to all patients of County of Clackamas;
 - d) it will render all services to Eligible Patients without regard to race, creed, color, age, sex, sexual orientation, citizenship, marital status, veteran status, national origin, disability, religion, arrest record or other protected status;
 - e) it will not use drugs purchased under Section 340B to dispense Medicaid prescriptions, except as provided in an arrangement with the State Medicaid agency as approved by County of Clackamas to prevent duplicate discounting;
 - f) all of its employees, agents, representatives and members of its workforce, whose services may be used to fulfill obligations under this Agreement are or shall be appropriately informed of the terms of this Agreement and are under legal obligation to Pharmacy, by contract or otherwise, sufficient to enable Pharmacy to fully comply with all provisions of this Agreement including, without limitation, the requirement that modifications or limitations that County of Clackamas has agreed to adhere to with regards to the use and disclosure of Protected Health Information of any individual that materially affects and/or limits the uses and disclosures that are otherwise permitted will be communicated to Pharmacy, in writing, and in a timely fashion;
 - g) it will reasonably cooperate with County of Clackamas in the performance of the mutual obligations under this Agreement;
 - h) the execution and delivery of this Agreement and the performance of the duties obligations and transactions contemplated do not and will not contravene, conflict with or violate any agreement, commitment, plan or instrument binding on Pharmacy, including without limitation any participating provider agreement and any third party payer or pharmacy benefit management agreement; and
 - i) it, nor its shareholders, members, directors, officers, agents, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including

Initials: _____

Initials: _____

the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, state or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. Each Party further agrees to notify the other Party immediately after the Party becomes aware that any of the foregoing representation and warranties may be inaccurate or may become incorrect and upon notice that the Party is being investigated in connection with any federal or state healthcare program.

22) **Confidentiality Compliance.**

a) Definitions:

- i) "Designated Record Set" shall have the meaning set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended, or revised.
- ii) "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.
- iii) "Privacy Officer" shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a) (1), as such provision is currently drafted and as it is subsequently updated, amended or revised.
- iv) "Protected Health Information" shall have the meaning as set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.

b) Pharmacy may:

- i) use the Protected Health Information in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Pharmacy provided that such uses are permitted under state and federal confidentiality laws.
- ii) disclose the Protected Health Information in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of Pharmacy, provided that Pharmacy represents to County of Clackamas, in writing, that (i) the disclosures are required by law, as provided for in 45 C.F.R. § 164.501 or (ii) Pharmacy has received from the third party written assurances regarding its confidential handling of such Protected Health Information as required under 45 C.F.R. § 164.504(e)(4).
- iii) aggregate the Protected Health Information in its possession with the Protected Health Information of other covered entities that Pharmacy has in its possession through its capacity as a business associate to said other covered entities provided that the purpose of such aggregation is to provide County of Clackamas with data analyses relating to the Health Care Operations of County of Clackamas. Under no circumstances may Pharmacy disclose Protected Health Information of one covered entity to another covered entity absent the explicit authorization of County of Clackamas.
- iv) de-identify any and all Protected Health Information provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b), and further provided that County of Clackamas maintains the documentation required by 45 C.F.R. § 164.514(b) which may be in the form of a

Initials: _____

Initials: _____

written assurance from Pharmacy. Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this Agreement.

- c) Responsibilities of Pharmacy with respect to Protected Health Information. With regard to its use and/or disclosure of Protected Health Information, Pharmacy hereby agrees to do the following:
- i) use and/or disclose the Protected Health Information only as permitted or required by this Agreement or as otherwise required by law.
 - ii) report to the designated Privacy Officer of County of Clackamas, in writing, any use and/or disclosure of the Protected Health Information that is not permitted or required by this Agreement of which Pharmacy becomes aware within 5 business days of Pharmacy discovery of such unauthorized use and/or disclosure.
 - iii) establish procedures for mitigating, to the greatest extent possible, any deleterious effects from any improper use and/or disclosure of Protected Health Information that Pharmacy reports to County of Clackamas.
 - iv) use commercially reasonable efforts to maintain the security of the Protected Health Information and to prevent unauthorized use and/or disclosure of such Protected Health Information.
 - v) require all of its subcontractors and agents that receive or use, or have access to, Protected Health Information under this Agreement to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of Protected Health Information that apply to Pharmacy pursuant to this Agreement.
 - vi) make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to the Secretary of the Department of Health and Human Services for purposes of determining County of Clackamas's compliance with the Privacy Regulation, subject to attorney-client and other applicable legal privileges.
 - vii) upon prior written request, make available during normal business hours at Pharmacy offices all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to County of Clackamas within 10 business days for purposes of enabling County of Clackamas to determine Pharmacy compliance with the terms of this Agreement.
 - viii) within 45 days of receiving a written request from County of Clackamas, provide to County of Clackamas such information as is requested by QE to permit QE to respond to a request by an individual for an accounting of the disclosures of the individual's Protected Health Information in accordance with 45 C.F.R. § 164.528.
 - ix) except as required by state or federal law, return to County of Clackamas or destroy, within 5 business days of the termination of this Agreement, the Protected Health Information in its possession and retain no copies (which for purposes of this Agreement shall mean destroy all backup tapes).
 - x) disclose to its subcontractors, agents or other third parties, and request from QE, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.

Initials: _____

Initials: _____

- d) Responsibilities of County of Clackamas with respect to Protected Health Information. With regard to the use and/or disclosure of Protected Health Information by Pharmacy, County of Clackamas hereby agrees:
- i) to inform Pharmacy of any changes in the form of notice of privacy practices (the "Notice") that County of Clackamas provides to individuals pursuant to 45 C.F.R. §164.520, and to provide Pharmacy a copy of the Notice currently in use.
 - ii) to inform Pharmacy of any changes in, or withdrawal of, the consent or authorization provided to County of Clackamas by individuals pursuant to 45 C.F.R. §164.506 or §164.508.
 - iii) to inform Pharmacy of any opt-outs exercised by any individual from marketing and/or fundraising activities of County of Clackamas pursuant to 45 C.F.R. § 164.514(e) and (f).
 - iv) to notify Pharmacy, in writing and in a timely manner, of any arrangements permitted or required of County of Clackamas under 45 C.F.R. Parts 160 and 164 that may impact in any manner the use and/or disclosure of Protected Health Information by Pharmacy under this Agreement, including, but not limited to, restrictions on use and/or disclosure of Protected Health Information as provided for in 45 C.F.R. § 164.522 agreed to by County of Clackamas.
 - v) that Pharmacy may make any use and/or disclosure of Protected Health Information permitted under 45 C.F.R. § 164.512 except uses or disclosure for research is not permitted without prior approval by County of Clackamas.
- e) Survival of Obligations. The rights and obligations set forth in this Section 22 shall survive the termination of this Agreement.

23) Non-disclosure/Non-solicitation

- a) Non-disclosure. In the course of performing under this Agreement, Pharmacy may receive, be exposed to or acquire Confidential Information including but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer data base or computer readable form, as well as any information identified as confidential of the QE or RXS ("Confidential Information"). Without limiting the foregoing, Pharmacy acknowledges and agrees that this Agreement, including the pricing terms of this Agreement, constitutes Confidential Information. For purposes of this Agreement, Confidential Information shall not include Protected Health Information, the security of which is the subject of this Agreement and is provided for elsewhere. Pharmacy including its employees, agents or representatives (i) shall not disclose to any third party the Confidential Information except as otherwise permitted by this Agreement, (ii) only permit use of such Confidential Information by employees, agents and representatives having a need to know in connection with performance under this Agreement, and (iii) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential. Notwithstanding anything to the contrary herein, each Party shall be free to use, for its own business purposes, any ideas, suggestions, concepts, know-how or techniques contained in information received from each other that directly relates to the performance under this Agreement. This provision shall not apply to Confidential Information: (1) after it becomes publicly available through no fault of either Party; (2) which is later publicly released by either Party in writing; (3) which is lawfully obtained from third parties without restriction; or (4) which can be shown to be previously known or developed by either Party independently of the other Party.
- b) Non-solicitation. During the term of this Agreement and for one (1) year after the termination thereof the Pharmacy will not hire, seek to hire or assist in hiring any employee, agent or independent

Initials: _____

Initials: _____

contractor of County of Clackamas or of RXS or induce or seek to induce or take action which results in the termination of employment or other arrangements between County of Clackamas or RXS, and such employee, agent or independent contractor or otherwise interferes with such employment or contractual arrangements.

- c) **Enforcement.** Pharmacy acknowledges and agrees that any breach by it of any of the provisions of Sections 23(a) or 23(b) (the "Restrictive Covenants") would result in irreparable injury and damage for which money damages would not provide an adequate remedy. Therefore, if the Pharmacy breaches, or threatens to commit a breach of, any of the Restrictive Covenants, County of Clackamas shall have the right and remedy (upon compliance with any necessary prerequisites imposed by law upon the availability of such remedy), which shall be independent and severally enforceable, and which shall be in addition to, and not in lieu of, any other rights and remedies available to County of Clackamas under law or in equity (including, without limitation, the recovery of damages), to have the Restrictive Covenants specifically enforced (without posting bond and without the need to prove damages) by any court having equity jurisdiction, including, without limitation, the right to an entry against Pharmacy of restraining orders and injunctions (preliminary, mandatory, temporary and permanent), without posting bond and without the need to prove damages, against violations, threatened or actual, and whether or not then continuing, of such covenants. The existence of any claim or cause of action by Pharmacy, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of the Restrictive Covenants. In addition, any breach of the Restrictive Covenants shall constitute a material breach of this Agreement.

- 24) **Entire Agreement.** This Agreement represents the entire understanding of the parties. There are no other agreements or understandings between the parties, either oral or written, relating to Covered Drugs. Any amendments to this Agreement shall be in writing and signed by both parties

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

Initials: _____

Initials: _____

Genoa A QOL Healthcare Company, LLC

By: _____

Name: _____

Its: _____

Owner, President, Officer Title

State License No. _____

Federal DEA No. _____

Address: _____

County of Clackamas

By: _____

Name: _____

Its: _____

Owner, President, Officer Title

Initials: _____

Initials: _____

COPY

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for an Intergovernmental Agreement with the
Oregon Trail School District #46 for the Sandy School Based Health Center

Purpose/Outcomes	This agreement enters into an Intergovernmental Agreement with the Oregon Trail School District #46 for the Sandy School Based Health Center (SBHC).
Dollar Amount and Fiscal Impact	This agreement has a contract value of \$50,000.
Funding Source	No County General Funds involved. Funding through revenue of 340B program.
Duration	Upon signature – October 31, 2018
Previous Board Action	No Previous Board Action.
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, healthy and secure communities
Contact Person	Deborah Cockrell 503-742-5495
Contract No.	8777

Background

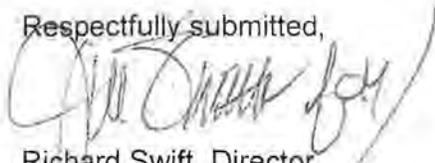
The Clackamas County Health Centers Division (CCHCD) of the Health, Housing and Human Services Department requests the approval of an Intergovernmental Agreement with the Oregon Trail School District #46 for the Sandy SBHC clinic. This agreement increases healthcare services to the Oregon Trail School District by providing funding for an additional exam room.

The contract value is \$50,000. This agreement is effective upon signature and will expire on October 31, 2018. County Counsel reviewed this Agreement on July 23, 2018.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing, and Human Services

Contract Amendment
Health, Housing and Human Services Department

H3S Contract Number 8561 Board Agenda Number N/A (under \$150k)

and Date 8/14/18

Division Health Centers Amendment No. 3

Contractor Comp Health

Amendment Requested By Ed Johnson

Changes: Scope of Services Contract Budget
 Contract Time Other _____

Justification for Amendment:

This Amendment updates Section 5 – Terms, Cancellation and Removal of Physician, paragraph 5.E.Term, to reflect a change in the compensation by adding \$250,000, to pay for services through June 30, 2019. These services are needed to cover clinical staffing and provide no breaks in service while the RFP is being developed. This will increase the contract value by \$250,000, making the new total contract value \$724,000.

This amendment is effective **upon signature** and continues through **June 30, 2019**.

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

AMEND:

5. TERM, CANCELLATION AND REMOVAL OF PHYSICIAN

5.E. Term. The term of this Agreement ("Term") shall begin on the Effective Date and continue for a period of one (1) year. The Parties agree that the maximum Agreement value shall not exceed \$474,000.

TO READ:

5. TERM, CANCELLATION AND REMOVAL OF PHYSICIAN

5.E. Term. The term of this Agreement ("Term") shall begin on the Effective Date and continue ***until June 30, 2019***. The Parties agree that the maximum Agreement value shall not exceed ***\$724,000***.

Signature Page to Follow

COMPHEALTH

Professional Services Contract – Amendment #03

Page 2 of 2

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

COMPHEALTH

By:  _____ Director
Name and Title

August 15, 2018
Date

7529 Bingham Jct. Blvd.
Street Address

Midvale, UT 84047
City/State/Zip

(801) 930-3481 /
Phone

/ Fax

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair

Commissioner: Sonya Fischer

Commissioner: Ken Humberston

Commissioner: Paul Savas

Commissioner: Martha Schrader

Signing on Behalf of the Board:

Richard Swift, Director
Health, Housing and Human Services Department

Date

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Professional Services Agreement for
Clackamas County Health Centers Division with
CompHealth Locum Tenens for temporary physician staff.

Purpose/Outcomes	This Agreement is to provide physician staffing for Clackamas County Health Centers Division (CCHCD) clinics that serve community members.
Dollar Amount and Fiscal Impact	The Agreement has a maximum value \$724,000. This agreement is funded through revenue generated from the fees for services provided at CCHCD clinics.
Funding Source	Health Centers fee for services. No County General Funds are involved.
Duration	Effective upon signature and terminates on June 30, 2019.
Strategic Plan Alignment	1. Efficient and Effective Services. 2. Ensure safe, healthy and secure communities
Previous Board Action	Previous Board Action on February 22, 2018. Agenda item 022218-A3
Contact Person	Deborah Cockrell, FQHC Director – 503-742-5495
Contract No.	8561_03

BACKGROUND:

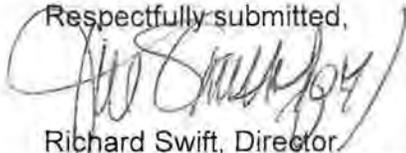
The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of the Professional Service Agreement with CompHealth Locum Tenens for temporary physician staff.

The physician position remains vacant. These services are used to supplement coverage at the CCHCD clinics while vacancies are filled. A Request for Proposal (RFP) is being developed, and this amendment allows no disruption in services. The additional funding of \$250,000, brings the maximum contract value to \$747,000. This amendment is effective upon signature and continues through June 30, 2018. County Counsel approved this Agreement on September 4, 2018.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY, OREGON
HEALTH CENTERS DIVISION
AND
OREGON TRAIL SCHOOL DISTRICT NO. 46**

#8777

I. Purpose

This agreement is entered into between Clackamas County Department of Health, Housing and Human Services, Health Centers Division (CCHCD) and OREGON TRAIL SCHOOL DISTRICT NO. 46 (OTSD) for the cooperation of units of local government under the authority of ORS 190.010.

This agreement provides the basis for funding for the Sandy High School - School Based Health Centers (SBHC) new exam room.

II. Scope of Work and Cooperation

A. OTSD agrees to:

1. OTSD and any subcontractors agree to clean up all construction materials associated with the project by 2pm, Monday - Friday, when work has been performed in order to assure the safety of staff and clients that may be entering the worksite. Efforts will be made to ensure that any hazards are appropriately mitigated to prevent harm to CCHCD staff and/or clients that enter the site, up to and including: fumes, debris, dust, etc.
2. OTSD will follow the Projected Construction Schedule as outlined in Exhibit A.

B. CCHCD agrees to:

1. Provide funding for the construction of a new examination room in Sandy's SBHC. The new exam room will be open to patients by September 1, 2018.
2. CCHCD agrees to provide a deposit of \$8,000 upon full execution of this agreement. CCHCD also agrees to pay a 15% Administration Fee at the completion of the project.

III. Compensation

- A. CCHCD shall compensate OTSD for satisfactorily completing activities described in Section II.A. above.
- B. The total payment to OTSD shall not exceed \$50,000.00.
- C. OTSD shall submit a final invoice for reimbursement upon project completion. The request may use any format approved by CCHCD, but should list work accomplished for which reimbursement is requested and supporting documentation. Requests for reimbursement shall be submitted to:

Clackamas County Health Centers Division
Attn: Accounts Payable
2051 Kaen Road, # 367

Oregon City, Oregon 97045

or electronically to:

HealthCenterAP@clackamas.us

Within thirty (30) days after receipt of the bill, provided that the Program Manager, has approved the activities specified on the request for reimbursement, CCHCD shall pay the amount requested to the OTSD.

IV. Liaison Responsibility

*Jim Seipel, Facilities Director, will act as liaison from OTSD for this project.
Erin De Armond-Reid, Assistant Primary Care Manager, will act as liaison from CCHCD.*

V. Special Requirements

- A. CCHCD and OTSD agree to comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including Oregon Public Contract laws and all applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, 45 CFR Parts 160-164, as well as all applicable provisions in each party's Intergovernmental Agreement with the Oregon Health Authority.
- B. Within the limits of the Oregon Tort Claims Act, OTSD agrees to protect and save CCHCD, its elected and appointed officials, agents, and employees while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising against CCHCD's employees on account of personal injuries, death or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of OTSD, and/or its agents, employees, subcontractors, or representatives under this agreement.

Within the limits of the Oregon Tort Claims Act, and the Oregon Constitution Article XI, Section 10, CLACKAMAS agrees to protect and save OTSD, its elected and appointed officials, agents, and employees while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising against CCHCD's employees on account of personal injuries, death or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of CCHCD, and/or its appointed officials, agents, employees, subcontractors, or representatives under this agreement.

- C. Access to Records. Each party to this agreement, as well as the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the other party to this agreement which are directly pertinent to the agreement for the purpose of making audit, examination, excerpts, and transcripts.
- D. This agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein that would conflict with law are deemed inoperative to that extent.

VI. Amendment

This agreement may be amended at any time with the concurrence of both parties. Any changes in the proposed budget or scope of work will be negotiated between the designated liaisons. Amendments become a part of this agreement only after the written amendment has been signed by both parties.

VII. Term of Agreement

This agreement becomes effective upon signature and is scheduled to terminate October 31, 2018.

This agreement is subject to termination by either of the parties when thirty (30) days' written notice has been provided.

This agreement consists of seven (7) sections plus the following Exhibits that by this reference are incorporated herein:

Exhibit A Projected Construction Schedule

OREGON TRAIL SCHOOL DISTRICT NO.46



Signature Authority Name
7-20-18

Date
86525 SE Industrial way

Street Address
Sandy, OR 97055-0547

City / State / Zip
503-668-5541 / 503-668-7906

Phone / Fax

CLACKAMAS COUNTY

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

Signing on Behalf of the Board:

Richard Swift, Director
Health, Housing, and Human Services

Date

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Service Agreement with The Kroger Co. (Kroger), partnering
with Clackamas County Health Centers Division
in participation with 340B Pharmacy Services Agreement

Purpose/Outcomes	The intent of the Service Agreement is to facilitate Clackamas County Health Centers Division (CCHCD) participation in the 340B drug program.
Dollar Amount and Fiscal Impact	The Agreement has no maximum value as it will generate revenue for Clackamas County's Federally Qualified Health Center (FQHC). This will enter CCHCD and Kroger into a "ship to/bill to" arrangement wherein Kroger will dispense prescription drugs on behalf of CCHCD and then charge and collect fees for such drugs.
Funding Source	No County General Funds are involved. This is revenue generating through the 340B Drug Program.
Duration	Effective upon signature and terminates with the Third Party Drug Administrator Agreement (RxStrategies, 6/30/23).
Strategic Plan Alignment	1. Provide patient-centered health center services to vulnerable populations so they can experience improved health. 2. Ensure safe, health and secure communities
Previous Board Action	There has been no previous board action on this item.
Contact Person	Deborah Cockrell, FQHC Director – 503-742-5495
Contract No.	9021 & 9021_01

BACKGROUND:

The Clackamas County Health Centers Division (CCHCD) requests the approval of a Service Agreement and Memorandum of Understanding for the transition of the Third Party Administrator (TPA) of the 340B Program managed by CCHCD. The incumbent is NEC Networks, and it will be replaced with RxStrategies. The TPA manages the prescription drug virtual inventory of various pharmacies utilized by CCHCD. This agreement reflects the TPA change for the Kroger pharmacies and central-fill location. Participation in the 340B Drug Program allows the purchase of prescription drugs for CCHCD patients at favorable discounts from drug manufacturers. Selection of RxStrategies replacing NEC Networks was done through a competitive RFP that was

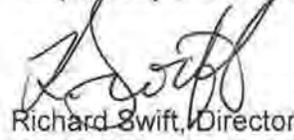
awarded on January 11, 2018. County Counsel reviewed and approved this agreement on September 10, 2018.

This Agreement is effective upon signature and continues through June 30, 2023, (termination of the Third Party Administrator Agreement, RxStrategies).

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", is written over the printed name.

Richard Swift, Director
Health, Housing, and Human Services

PHARMACY SERVICE AGREEMENT

#9021

THIS AGREEMENT is made by and between County of Clackamas ("Covered Entity"), a Oregon Consolidated Health Center exempt from federal income tax, and, **The Kroger Co.** for itself and its affiliates and subsidiaries operating pharmacies listed in (hereinafter "Pharmacy") as of the date of the last dated signature on page 15.

WHEREAS, County of Clackamas is a "Covered Entity," specifically a "Consolidated Health Center" ("CH") as defined in Section 340B of the Public Health Service Act (hereinafter "Section 340B") and is eligible to purchase certain outpatient drugs at reduced prices for use by Eligible Patients, as defined in this Agreement, from drug manufacturers who have signed a drug purchasing agreement with the United States Department of Health and Human Services (hereinafter "DHHS") and/or the manufacturers' wholesalers;

WHEREAS, Covered Entity provides health care services to Eligible Patients at Exhibit A (the "Covered Entity Site");

WHEREAS, Covered Entity has engaged RxStrategies, Inc. ("RXS") to manage the pharmacy services and pharmacy relationship of the Covered Entity;

WHEREAS, the system, procedures and processes of RXS (past, current and future) remain the sole property of RXS and cannot be used by the Covered Entity and/or the Pharmacy independent of this agreement in perpetuity without the written consent of RXS,

WHEREAS, Pharmacy is duly licensed as a pharmacy in the State of Oregon and

WHEREAS, Covered Entity desires to engage Pharmacy to provide Pharmacy Services, as defined in this Agreement, to Eligible Patients on behalf of Eligible Patients with respect to outpatient drugs purchased pursuant to Section 340B.

NOW, THEREFORE, the parties agree as follows:

- 1) **Eligible Patients.** An individual will be considered an Eligible Patient under this Agreement if the following conditions are met:
 - a) Covered Entity has established a relationship with the individual, such that Covered Entity maintains records of the individual's health care;
 - b) The individual receives health care services from a health care professional who is either employed by Covered Entity or under contract with Covered Entity such that responsibility for the care remains with Covered Entity;
 - c) The individual receives a health care service or range of services from Covered Entity which is consistent with the service or range of services for which grant funding, listed in Section 340B, or Federally qualified health Covered Entity look-alike status has been granted Covered Entity; and

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- d) The individual receives health care services at the Covered Entity Site.
 - i) An individual will not be considered an Eligible Patient if the only health care service provided by Covered Entity to the individual is the dispensing of a drug or drugs for subsequent self-administration or administration in the home setting. Notwithstanding the foregoing, individuals registered in a State operated or funded AIDS drug purchasing assistance program receiving financial assistance under Title XXVI of the Public Health Services Act are considered Eligible Patients.
- 2) **Covered Drugs.** The prescription outpatient drugs covered by this Agreement (hereinafter "Covered Drugs") are listed on Attachment A of this Agreement. The parties agree that Covered Entity may add or remove Covered Drugs from Attachment A at its sole discretion during the life of this Agreement. **Purchases, Shipment and Pricing of Drugs.**
- a) Pharmacy shall maintain sufficient supplies of such drugs to meet the day-to-day needs of Eligible Patients. Covered Entity will replenish Pharmacy's inventory for Covered Drugs dispensed to Eligible Patients for which payment under this Agreement was received by Pharmacy. Covered Entity shall arrange to be billed directly for Covered Drugs by the manufacturer/wholesaler(s), and arrange for shipment of such drugs (NDC-11 specific) directly to the Pharmacy on a schedule agreeable by Covered Entity and Pharmacy. Covered Entity shall establish all retail prices for Covered Drugs for all Eligible Patients as provided in Attachment A, which may be amended from time to time by Covered Entity.
 - b) In order to facilitate the timeliness of the inventory replenishment process and ensure that drug replenishment is consistent with current and historical practices of the Pharmacy, Pharmacy shall provide, if requested by RXS, the following documentation and information to RXS upon execution of this Agreement:
 - i) Identification of all pharmaceutical wholesalers;
 - ii) Velocity reports for the most recent past three month period from all wholesalers;
 - iii) List of inventory items by NDC ;
 - iv) List of Pharmacy's third party payor processing information (typically BIN and PCN) and evidence of Medicaid and Medicare participation;
 - v) Such other documentation and information as reasonably requested by RXS in support of the 340B program addressed in this agreement.
 - c) If at the end of any 120 day period after a drug has been dispensed, the Covered Entity is unable to replenish the dispensed drug to the Pharmacy, the Covered Entity will reimburse the Pharmacy for the cost of the drug dispensed at WAC-3%.
 - d) If at the end of any 120 day period after a drug has been determined to be over-replenished, the Covered Entity will provide a return authorization to the Pharmacy

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- e) At the termination of the Agreement, the contract pharmacy must attest to the Covered Entity that all 340B drugs in inventory in excess of requirement ("Overstock") have been destroyed and therefore cannot be used in general commerce.
- 3) **Tracking System.** The parties to this Agreement understand that, pursuant to Section 340B, Covered Entity is liable to the manufacturer of Covered Drugs in an amount equal to the reduction in the price of Covered Drugs in the event that a discounted Covered Drug is sold or otherwise transferred to a person who is not an Eligible Patient. Pharmacy, with the assistance of Covered Entity and RXX, shall establish and maintain a tracking system suitable to prevent the diversion of Covered Drugs to individuals who are not Eligible Patients. Covered Entity will establish a process for periodic random (sample) comparison of its prescribing records with Pharmacy's dispensing records to detect potential irregularities. Said comparison will be conducted quarterly and comparison of purchasing and dispensing records will be performed every six months.
- a) Prescriptions retroactively identified for inclusion in the program by the random comparison process, outside of 60 days from the date of service require Pharmacy approval.
 - b) Prescriptions, previously included, but retroactively identified for exclusion by the random comparison process, outside of 60 days from the date of service require a plan of action agreeable to the pharmacy, for the inventory disposition.
- 4) **Prescriptions.** Pharmacy shall dispense Covered Drugs only in the following circumstances:
- a) Upon presentation of a prescription form bearing an eligible prescriber's name, the Eligible Patient's name, or
 - b) Upon receipt of a prescription ordered by telephone, facsimile or electronic transmission on behalf of an Eligible Patient by a legally qualified health care provider.
 - c) Where appropriate, Covered Entity through RXX will furnish lists to Pharmacy of all eligible prescribers and will update the lists to reflect any changes.
- 5) **Pharmacy Services.** Pharmacy shall provide the following services:
- a) Dispensing Covered Drugs to Eligible Patients in accordance with all applicable State and Federal statutes and regulations and the professional judgement of the dispensing pharmacist;
 - b) Participating in all pre- and post-adjudication programs as directed by Covered Entity or RXX as well as all data collection or auditing programs, plans and procedures as may be of assistance to Covered Entity or RXX in order to establish or verify costs, charges, reimbursement rates, billing, payments or receipts;
 - c) Participating in third party payor arrangements in which the Covered Entity participates or which the Covered Entity may request. Pharmacy shall make all best efforts to enter into all such third party payor arrangements prior to the Commencement Date;
 - d) Maintaining all records and reports (including without limitation, prescription files, velocity reports and records of ordering and receipt) required under this Agreement, Section 340B,

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and by any applicable Federal and State law and regulations, which shall be separate from or readily retrievable from the Pharmacy's own operations and records, and shall be accessible with 15 day prior written request by Covered Entity, DHHS and the manufacturer/wholesaler in the case of audit. Such records shall be retained for not less than five years after the Pharmacy Services are rendered, and shall be available for inspection or audit by Covered Entity and as otherwise permitted by law and this Agreement;

- e) Conducting Eligible Patient drug utilization review;
 - f) Conducting formulary maintenance, including providing drug-related information services to Covered Entity clinical personnel, consulting with Covered Entity on the purchase of Covered Drugs, and identifying and disposing of Covered Drugs in its inventory which are out of date;
 - g) Maintaining Eligible Patient drug profiles;
 - h) Counseling and advising Eligible Patients consistent with the rules, limitations, and privileges incident to the pharmacy-patient relationship; and
 - i) Determining if a particular Eligible Patient is covered by a governmental or private insurance program, and if covered, will obtain the necessary authorization(s) or benefit payment for Covered Drugs.
- 6) **Relationship of the Parties.** Pharmacy is an independent contractor and shall be solely responsible for its acts and omissions regarding advice and services it is required to provide to Eligible Patients and Covered Entity. Pharmacy agrees to render all services provided under this Agreement in accordance with professional standards applicable to pharmacy services and in accordance with rules and regulations of the State Board of Pharmacy. Pharmacy shall have the right to refuse to serve any Eligible Patient where such service would violate any statute, regulations, or professional standards applicable to pharmacy services after making every attempt to resolve the outstanding issue with the prescriber. Pharmacy shall notify Covered Entity of any refusal of service within twenty-four (24) hours of such refusal.
- i) Pharmacy understands and acknowledges that RXS has been engaged by Covered Entity to manage pharmacy services and the relationship with Pharmacy. Accordingly, Pharmacy acknowledges that RXS is and will act as agent for Covered Entity. All obligations, duties, functions or tasks of Covered Entity as described herein may be carried out by RXS, as agent for Covered Entity. Unless advised to the contrary, Pharmacy shall provide all reports required hereunder to RXS, as agent for Covered Entity, and shall seek assistance from RXS, not Covered Entity, for all problems and issues regarding the services, duties and obligations hereunder.
- 7) **Pharmacy Site.** Pharmacy agrees it will provide Pharmacy Services contracted for under this Agreement at the sites listed in Exhibit B.
- 8) **Payment for Services.** Pharmacy shall be paid for Pharmacy Services in accordance with the terms provided on Attachment B to this Agreement. Covered Entity and Pharmacy have freely negotiated the terms of this Agreement and neither has offered or received any inducement or

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other consideration from the other party for entering into this Agreement. The compensation to be paid to Pharmacy is consistent with fair market value in arms-length transactions for Pharmacy Services and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under a Federal or State health care program. Nothing in this Agreement shall be construed to require Covered Entity to make referrals of patients to Pharmacy.

- 9) **Patient Choice.** Pharmacy understands and agrees that Eligible Patients of Covered Entity may elect not to use Pharmacy for Pharmacy Services. In the event that an Eligible Patient elects not to use Pharmacy for such services, the patient may obtain the prescription from the prescriber and then obtain the drug(s) from the pharmacy provider of his or her choice.
- 10) **Quarterly Reports.** Based on the Pharmacy activity, RXS shall provide Covered Entity with quarterly financial statements, a detailed status report of collections, and a summary of receiving and dispensing records in a form satisfactory to Covered Entity. Pharmacy shall provide upon request by RXS any information that it might require to support or clarify such reports. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for any reason.
- 11) **Prohibition on Resale or Transfer.** Pharmacy agrees that it will not resell or transfer a Covered Drug ordered under this Agreement pursuant to Section 340B to an individual who is not an Eligible Patient of Covered Entity. Upon presentation of complete and adequate documentation, Pharmacy further agrees that, in the event of transfer, diversion, or resale of a Covered Drug in violation of this Agreement, it will pay Covered Entity an amount equal to the price discount Covered Entity received from the manufacturer/wholesaler so that the Covered Entity can reimburse the manufacturer/wholesaler as provided in Section 4. For purposes of this provision, the Covered Entity's determination of the amount of the discount on a Covered Drug payable to the manufacturer shall be conclusive.
 - a) Covered Entity agrees that it will not resell or transfer a Covered Drug to an individual who is not an Eligible Patient.
- 12) **Anti-Kickback.** The Covered Entity and Pharmacy agree that their employees shall not offer or transfer remuneration to any individual eligible for benefits under federal or state health care programs (including Medicare and Medicaid).
- 13) **Fee for Service Medicaid (Medicaid FFS).** Unless specifically authorized by the State of Oregon, Medicaid FFS patients of the Covered Entity are not eligible for 340B Discount Prescription Program benefits.
- 14) **Audits.**
 - a) Pharmacy understands and agrees that both Pharmacy and Covered Entity are subject to audit by DHHS and by drug manufacturers who have signed a drug purchasing agreement with DHHS, which audits may pertain to the Covered Entity's compliance with the prohibition on drug resale or transfer and the prohibition on duplicate Medicaid rebates and discounts. Covered Entity shall notify Pharmacy immediately of any audit notice by DHHS or drug

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manufacturer. Pharmacy further understands that the DHHS has published proposed guidelines for such audits. Pharmacy agrees to cooperate with such audits and to comply with applicable provisions of the audit guidelines and amendments thereto that may be published from time to time.

- b) Pharmacy grants RXS the right, on behalf of Covered Entity, to audit its books and records, including all electronic records as it relates to the 340B program defined in this Agreement and consistent with HIPAA regulations, to verify and ensure compliance with the duties, obligations and transactions outlined hereunder. Pharmacy agrees to use its best efforts to cooperate with such audits in good faith.
 - c) The provisions of this Section 13 shall survive the expiration or termination of this Agreement for any reason.
- 15) **Inspection by Manufacturer.** Pharmacy and Covered Entity understand and agree that a copy of this Pharmacy Services Agreement will be provided, upon request, to a drug manufacturer who has signed a purchasing agreement with DHHS and sells Covered Drugs to Covered Entity. In the event either party receives such a request, it shall immediately inform the other party and each party shall then have the opportunity to delete any information in this Agreement and attachments which it considers to be proprietary and confidential prior to submitting the Agreement to the requesting manufacturer. The provisions of this Section shall survive the expiration or termination of this Agreement for any reason.
- 16) **Insurance.** Pharmacy shall maintain during the term of this Agreement a policy of liability insurance with a responsible insurance carrier or an equivalent self-insurance plan in an amount not less than \$100,000 per incident and which includes the Covered Drugs in its coverage.
- 17) **Indemnification.** Pharmacy agrees to indemnify and hold Covered Entity and RXS harmless from any loss, damage or cost (including reasonable attorney fees) it may incur as a result of any wrongful acts or omission of Pharmacy with respect to this Agreement. Covered Entity agrees to indemnify and hold Pharmacy harmless from any loss, damage or cost (including reasonable attorney fees) it may incur as a result of any wrongful acts or omissions of Covered Entity with respect to this Agreement.
- 18) **Non-Assignment.** This Agreement may not be assigned by either party without the prior written agreement of the other party and RXS.
- 19) **Term and Termination.**
- a) This Agreement shall commence on or after November 9th, 2017 as follows (the "Commencement Date"), and shall continue in effect for three (3) years from the Commencement Date. Thereafter, this Agreement shall automatically renew for consecutive one (1) year periods until terminated as provided below. The Commencement Date of this Agreement for which claims can be processed shall be the first day upon which all the following have been completed: 1) Execution of the Agreement by both parties; 2) Registration of the Agreement by OPA; 3) Posting by OPA and the passing of the OPA effective date for the arrangement contemplated hereunder; 4) completion of wholesaler

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accounts; and 5) Pharmacy completing 340B training with the pharmacy staff for the location listed on Exhibit B.

- b) This Agreement may be terminated as a result of any one of the following:
 - i) Mutual agreement of the parties;
 - ii) Sixty (60) days prior written notice by either party;
 - iii) Covered Entity, immediately and without prior notice, upon a material breach of this Agreement by Pharmacy. Without limiting Covered Entity's right to assert any other act or failure to act as constituting a material breach by Pharmacy, Pharmacy's dispensing of a Covered Drug to an individual who is not an Eligible Patient or any other diversion of a Covered Drug shall be deemed to be a material breach if not adequately cured within 30 days of written notice. Covered Entity's waiver or failure to take action with respect to Pharmacy's failure to comply with any term or provision of this Agreement shall not be deemed to be a waiver of Covered Entity's right to insist on future compliance with such term or provision.
 - iv) The Pharmacy reserves similar rights in 19)b)iii) as it relates to Covered Entity.
- c) Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, to the parties at the addresses set forth on the signature pages hereto. Notice shall be effective on the day it is mailed.

20) **Compliance with Laws.** The parties hereto shall comply with all applicable federal, state and local laws, rules, regulations and requirements. Covered Entity shall comply with all rules and regulations governing its Health Resources and Service Administration grant funding.

21) **Choice of Law.** This Agreement shall be interpreted according to the laws of the State of Oregon

22) **Representations of Pharmacy and Covered Entity where appropriate.** Pharmacy and Covered Entity represents that:

- a) it employs, and will continue to employ throughout the term of this Agreement, sufficient qualified and credentialed personnel needed to manage and operate the Pharmacy and provide the services anticipated hereunder in a timely, professional, competent and ethical manner;
- b) it owns, possesses and employs, and will continue to employ throughout the term of this Agreement, sufficient technology and equipment as needed to manage and operate the Pharmacy and provide the services in the manner anticipated hereunder;
- c) it will render the Pharmacy services hereunder in accordance with prevailing pharmaceutical and medical standards that are applied the same fashion to all patients of Covered Entity;

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- d) it will render all Pharmacy services to Eligible Patients without regard to race, creed, color, age, sex, sexual orientation, citizenship, marital status, veteran status, national origin, disability, religion, arrest record or other protected status;
- e) it will not use drugs purchased under Section 340B to dispense Medicaid prescriptions, except as provided in an arrangement with the State Medicaid agency as approved by Covered Entity to prevent duplicate discounting;
- f) all of its employees, agents, representatives and members of its workforce, whose services may be used to fulfill obligations under this Agreement are or shall be appropriately informed of the terms of this Agreement and are under legal obligation to Pharmacy, by contract or otherwise, sufficient to enable Pharmacy to fully comply with all provisions of this Agreement including, without limitation, the requirement that modifications or limitations that Covered Entity has agreed to adhere to with regards to the use and disclosure of Protected Health Information of any individual that materially affects and/or limits the uses and disclosures that are otherwise permitted will be communicated to Pharmacy, in writing, and in a timely fashion;
- g) it will reasonably cooperate with Covered Entity in the performance of the mutual obligations under this Agreement;
- h) the execution and delivery of this Agreement and the performance of the duties obligations and transactions contemplated do not and will not contravene, conflict with or violate any agreement, commitment, plan or instrument binding on Pharmacy, including without limitation any participating provider agreement and any third party payor or pharmacy benefit management agreement; and
- i) Pharmacy, Covered Entity, nor its shareholders, members, directors, officers, agents, employees or members of its workforce performing duties directly related to this Agreement have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, state or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. Each Party further agrees to notify the other Party immediately after the Party becomes aware that any of the foregoing representation and warranties may be

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inaccurate or may become incorrect and upon notice that the Party is being investigated in connection with any federal or state healthcare program.

23) **Confidentiality Compliance.**

a) Definitions:

- i) "Designated Record Set" shall have the meaning set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended, or revised.
- ii) "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.
- iii) "Privacy Officer" shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a) (1), as such provision is currently drafted and as it is subsequently updated, amended or revised.
- iv) "Protected Health Information" shall have the meaning as set out in its definition at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.

b) Pharmacy may:

- i) use the Protected Health Information in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Pharmacy provided that such uses are permitted under state and federal confidentiality laws.
- ii) disclose the Protected Health Information in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of Pharmacy, provided that Pharmacy represents to Covered Entity, in writing, that (i) the disclosures are required by law, as provided for in 45 C.F.R. § 164.501 or (ii) Pharmacy has received from the third party written assurances regarding its confidential handling of such Protected Health Information as required under 45 C.F.R. § 164.504(e)(4).
- iii) aggregate the Protected Health Information in its possession with the Protected Health Information of other covered entities that Pharmacy has in its possession through its capacity as a business associate to said other covered entities provided that the purpose of such aggregation is to provide Covered Entity with data analyses relating to the Health Care Operations of Covered Entity. Under no circumstances may Pharmacy disclose Protected Health Information of one covered entity to another covered entity absent the explicit authorization of Covered Entity.
- iv) de-identify any and all Protected Health Information provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b), and further provided that Covered Entity maintains the documentation required by 45 C.F.R. § 164.514(b) which

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may be in the form of a written assurance from Pharmacy. Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this Agreement.

- c) Responsibilities of Pharmacy with respect to Protected Health Information. With regard to its use and/or disclosure of Protected Health Information, Pharmacy hereby agrees to do the following:
- i) use and/or disclose the Protected Health Information only as permitted or required by this Agreement or as otherwise required by law.
 - ii) report to the designated Privacy Officer of Covered Entity, in writing, any use and/or disclosure of the Protected Health Information that is not permitted or required by this Agreement of which Pharmacy becomes aware within 5 business days of Pharmacy discovery of such unauthorized use and/or disclosure.
 - iii) establish procedures for mitigating, to the greatest extent possible, any deleterious effects from any improper use and/or disclosure of Protected Health Information that Pharmacy reports to Covered Entity.
 - iv) use commercially reasonable efforts to maintain the security of the Protected Health Information and to prevent unauthorized use and/or disclosure of such Protected Health Information.
 - v) require all of its subcontractors and agents that receive or use, or have access to, Protected Health Information under this Agreement to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of Protected Health Information that apply to Pharmacy pursuant to this Agreement.
 - vi) make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to the Secretary of the Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy Regulation, subject to attorney-client and other applicable legal privileges.
 - vii) upon prior written request, make available during normal business hours at Pharmacy offices all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to Covered Entity within 10 business days for purposes of enabling Covered Entity to determine Pharmacy compliance with the terms of this Agreement.
 - viii) within 45 days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's Protected Health Information in accordance with 45 C.F.R. § 164.528.
 - ix) except as required by state or federal law, return to Covered Entity or destroy, within 5 business days of the termination of this Agreement, the Protected Health Information in

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its possession and retain no copies (which for purposes of this Agreement shall mean destroy all backup tapes).

- x) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.
- d) **Responsibilities of Covered Entity with respect to Protected Health Information.** With regard to the use and/or disclosure of Protected Health Information by Pharmacy, Covered Entity hereby agrees:
 - i) to inform Pharmacy of any changes in the form of notice of privacy practices (the "Notice") that Covered Entity provides to individuals pursuant to 45 C.F.R. §164.520, and to provide Pharmacy a copy of the Notice currently in use.
 - ii) to inform Pharmacy of any changes in, or withdrawal of, the consent or authorization provided to Covered Entity by individuals pursuant to 45 C.F.R. §164.506 or §164.508.
 - iii) to inform Pharmacy of any opt-outs exercised by any individual from marketing and/or fundraising activities of Covered Entity pursuant to 45 C.F.R. § 164.514(e) and (f).
 - iv) to notify Pharmacy, in writing and in a timely manner, of any arrangements permitted or required of Covered Entity under 45 C.F.R. Parts 160 and 164 that may impact in any manner the use and/or disclosure of Protected Health Information by Pharmacy under this Agreement, including, but not limited to, restrictions on use and/or disclosure of Protected Health Information as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity.
 - v) that Pharmacy may make any use and/or disclosure of Protected Health Information permitted under 45 C.F.R. § 164.512 except uses or disclosure for research is not permitted without prior approval by Covered Entity.
- e) **Survival of Obligations.** The rights and obligations set forth in this Section 23 shall survive the termination of this Agreement.

24) **Non-disclosure/Non-solicitation.**

- a) **Non-disclosure.** In the course of performing under this Agreement, Pharmacy may receive, be exposed to or acquire Confidential Information including but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer data base or computer readable form, as well as any information identified as confidential of the Covered Entity or RXS ("Confidential Information"). Without limiting the foregoing, Pharmacy acknowledges and agrees that this Agreement, including the pricing terms of this Agreement, constitutes Confidential Information. For purposes of this Agreement, Confidential Information shall not include Protected Health Information, the security of which is the subject of this Agreement and is provided for elsewhere. Pharmacy including its employees, agents or representatives (i) shall not disclose to any third party the Confidential Information except as otherwise permitted by

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this Agreement, (ii) only permit use of such Confidential Information by employees, agents and representatives having a need to know in connection with performance under this Agreement, and (iii) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential. Notwithstanding anything to the contrary herein, each Party shall be free to use, for its own business purposes, any ideas, suggestions, concepts, know-how or techniques contained in information received from each other that directly relates to the performance under this Agreement. This provision shall not apply to Confidential Information: (1) after it becomes publicly available through no fault of either Party; (2) which is later publicly released by either Party in writing; (3) which is lawfully obtained from third parties without restriction; or (4) which can be shown to be previously known or developed by either Party independently of the other Party.

b) Non-solicitation. During the term of this Agreement and for one (1) year after the termination thereof the Pharmacy, Covered Entity and RXS will not knowingly hire, seek to hire or assist in hiring any employee, agent or independent contractor of Pharmacy, Covered Entity or of RXS or induce or seek to induce or take action which results in the termination of employment or other arrangements between Pharmacy, Covered Entity or RXS, and such employee, agent or independent contractor or otherwise interferes with such employment or contractual arrangements, without the consent of all parties involved.

25) Enforcement. Pharmacy acknowledges and agrees that any breach by it of any of the provisions of Sections 23(a) or 23(b) (the "Restrictive Covenants") would result in irreparable injury and damage for which money damages would not provide an adequate remedy. Therefore, if the Pharmacy breaches, or threatens to commit a breach of, any of the Restrictive Covenants, Covered Entity shall have the right and remedy (upon compliance with any necessary prerequisites imposed by law upon the availability of such remedy), which shall be independent and severally enforceable, and which shall be in addition to, and not in lieu of, any other rights and remedies available to Covered Entity under law or in equity (including, without limitation, the recovery of damages), to have the Restrictive Covenants specifically enforced (without posting bond and without the need to prove damages) by any court having equity jurisdiction, including, without limitation, the right to an entry against Pharmacy of restraining orders and injunctions (preliminary, mandatory, temporary and permanent), without posting bond and without the need to prove damages, against violations, threatened or actual, and whether or not then continuing, of such covenants. The existence of any claim or cause of action by Pharmacy, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of the Restrictive Covenants. In addition, any breach of the Restrictive Covenants shall constitute a material breach of this Agreement.

26) Transactional Data. Covered Entity will be responsible to pay any and all switch fees associated with the provision of claims data required to verify 340B eligibility. Pharmacy agrees that upon termination of the arrangement between Pharmacy and Covered Entity for any reason, Pharmacy is responsible for notifying the switch company to terminate data feeds. Covered Entity agrees to pay for any fees associated with this termination.

Initials: _____

Initials: _____

27) Federal Contractor Status. The parties hereto understand and acknowledge the Pharmacy is not a federal contractor or subcontractor and does not wish to become such. Covered Entity represents and warrants that it is not a federal contractor or subcontractor and is not under the jurisdiction of the Office of Federal Contract Compliance Programs ("OFCCP"). Covered Entity further represents and warrants that this Agreement is not a federal contractor subcontract and that there is no underlying agreement that could bring this Agreement, the arrangement hereunder, or the parties here-to-within the jurisdiction of OFCCP. Covered Entity shall indemnify, defend and hold Pharmacy harmless from any and all liability, loss, claim, lawsuit, damage or expense whatsoever (including reasonable attorney's fees) arising out of, incident to or in any manner occasioned by Covered Entity's breach of representations and warranties set forth in this Section 27. Pharmacy may terminate the Agreement immediately, if it reasonably determines in its sole discretion that this Agreement is, or is likely to be, a federal contract or subcontract.

Initials: _____

Initials: _____

28) **Entire Agreement.** This Agreement represents the entire understanding of the parties. There are no other agreements or understandings between the parties, either oral or written, relating to Covered Drugs. Any amendments to this Agreement shall be in writing and signed by both parties

BALANCE OF PAGE INTENTIONALLY LEFT BLANK

Initials: _____

Initials: _____

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

The Kroger Co.

By: _____

Name: _____

Its: _____

Date: _____

County of Clackamas

By: _____

Name: Richard Swift _____

Its: Director _____

Date: _____

Initials: _____

Initials: _____

EXHIBIT A

Listing of All Covered Entity Sites Served By the Pharmacy

All current and future sites linked to the main site and as listed on the Office of Pharmacy Affairs (website: <http://opanct.hrsa.gov/opa/CE/CEExtract.aspx>) as owned, operated or contracted by or to Covered Entity. The current main listing is:

County of Clackamas
2051 Kaen Road
Suite 367
Oregon City, OR 97045
340B ID: CH101310

Initials: _____

Initials: _____

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Local Grant Agreement with Clackamas Women's Services
for Evidence-based Parenting Education Classes

Purpose/Outcomes	Provide parenting education classes, enhance teaching skills and competencies of parents to promote child social/emotional well-being and pre-literacy and pre-numeracy skills
Dollar Amount and Fiscal Impact	Agreement has a maximum value of \$9,499. No match is involved
Funding Source	Oregon Community Foundation
Duration	Effective August 1, 2018 and terminates on June 30, 2019
Previous Board Action	N/A
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook 503-650-5677
Contract No.	CYF 8972

BACKGROUND:

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a Local Grant Agreement with Clackamas Women's Service to provide parent education and skills training to a minimum of 20 parents. Classes will improve the quality of parent/child interaction and support healthy child development. Services are paid on a cost reimbursement basis.

This Agreement has a maximum value of \$9,499. No County General funds are involved and no match is required. It is effective August 1, 2018 and terminates June 30, 2019. It has been reviewed and approved by County Counsel.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services

**CLACKAMAS COUNTY, OREGON
LOCAL SUBRECIPIENT GRANT AGREEMENT CYF-8972**

Program Name: **Clackamas Women's Services OPEC Parenting Education**

Program/Project Number: CYF-8972

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

COUNTY Data

Grant Accountant: Larry Crumbaker

Clackamas County Finance
2051 Kaen Rd.
Oregon City, OR 97045
503-742-5429
larrycrum@clackamas.us

Program Coordinator: Chelsea Hamilton

Clackamas County Children, Youth & Families Division
150 Beavercreek Rd.
Oregon City, OR 97045
503-650-5682
chamilton@clackamas.us

SUBRECIPIENT Data

Finance/Fiscal Representative: Carla Batcheller

Clackamas Women's Services
256 Warner Milne Road
Oregon City, OR 97045
503-557- 5801
carlab@cwsor.org
FEIN: 93-0900119

Program Representative: Melissa Erlbaum

Clackamas Women's Services
256 Warner Milne Road
Oregon City, OR 97045
503-557-5810
melissae@cwsor.org

RECITALS

1. Clackamas Women's Service (SUBRECIPIENT), a local Nonprofit 501(c)(3) organization, was chosen by CYF through a competitive process to provide parenting classes to parents with children up to to age six to increase parenting skills and knowledge of healthy child development and to promote early learning and readiness for kindergarten. SUBRECIPIENT enhances access to this service across the county and has demonstrated capacity to deliver evidence-based parenting programs.
2. SUBRECIPIENT will conduct one English and one Spanish class series of Make Parenting A Pleasure (total of 10 sessions each series), with a minimum of 10 unduplicated parents each series. Parents will expand their knowledge about child development, build effective parenting skills, and strengthen parent-child relationships – resulting in enhanced children's health, development, and school readiness.
3. The Oregon Community Foundation – Oregon Parenting Education Collaborative (OPEC), which funds this Agreement, is a multi-year initiative to expand access to high-quality parenting programs and develop a stronger and more coordinated parenting education system in order to reach Clackamas County parents with young children, and especially those who are English language learners, low income, living in rural communities, and/or are otherwise traditionally underserved, lack adequate access to evidence-based parenting education.
4. This Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by County relating to the project incurred no earlier than August 1, 2018 and not later than June 30, 2019, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. SUBRECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Oregon Community Foundation – Oregon Parenting Education Collaborative Grant Agreement that is the source of the grant funding.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the Oregon Parenting Education Collaborative issued to the COUNTY by the Oregon Community Foundation. The maximum, not to exceed, grant amount that the COUNTY will pay on this Agreement is **\$9,500**.
5. **Disbursements.** This is a cost reimbursement grant and disbursements will be made monthly in accordance with the requirements contained in Exhibit D: Request for Reimbursement.

Failure to comply with the terms of this Agreement may result in withholding of payment.

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.
8. **Funds Available and Authorized.** The COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this Agreement.
10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:

- a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
- b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned". All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
- c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of the original grant application or Agreement.
- d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with Oregon Community Foundation Oregon Parenting Education Collaborative.
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
- f) **Match.** Matching funds are not required for this Agreement.
- g) **Payment.** Routine requests for reimbursement should be submitted monthly by the 15th of the following month using the form and instructions in Exhibit D: Request for Reimbursement. SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement.
- h) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibit C: SUBRECIPIENT Performance Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit D: Request for Reimbursement. All reports must be submitted on the templates provided and be signed and dated by an authorized official of SUBRECIPIENT.
- i) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- j) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, the Oregon Community Foundation, and their duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
- k) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2019), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

- l) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this Agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

11. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request COUNTY resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

12. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY, its elected officials, officers, employees and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- b) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
 - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury, death, and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its elected officials, officers, employees and agents. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. The policy(ies) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

- 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this Agreement, with limits not less than \$2,000,000 per occurrence for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
- 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its elected officials, officers, employees and agents" as an additional insured, but only with respect to SUBRECIPIENT's activities under this Agreement.
- 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
- 7) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
- 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
- 11) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.

- c) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part with the express written approval of the COUNTY.
- d) **Independent Status.** SUBRECIPIENT is independent of the COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of the COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind the COUNTY in any transaction or activity.
- e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- f) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state. Any litigation between the COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- g) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- i) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

(Signature Page Attached)

SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT

(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

SUBRECIPIENT

Clackamas Women's Services
256 Warner Milne Road
Oregon City, OR 97045

CLACKAMAS COUNTY

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

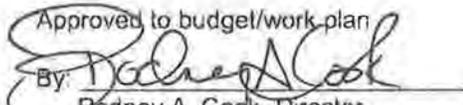
By: 
Melissa Erlbaum, Executive Director

Dated: 8/27/2018

Signing on behalf of the Board:

By: _____
Richard Swift, Director
Health, Housing & Human Services

Dated: _____

Approved to budget/work plan
By: 
Rodney A. Cook, Director
Children, Youth & Families Division

Dated: 8/27/18

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

September 20, 2018

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of Local Grant Agreement with Clackamas County Children's Commission
for Evidence-based Parenting Education Classes

Purpose/Outcomes	Provide parenting education classes, enhance teaching skills and competencies of parents to promote child social/emotional well-being and pre-literacy and pre-numeracy skills
Dollar Amount and Fiscal Impact	Agreement has a maximum value of \$9,500. No match is involved
Funding Source	Oregon Community Foundation. No County General Funds are involved.
Duration	Effective August 1, 2018 and terminates on June 30, 2019
Previous Board Action	N/A
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook 503-650-5677
Contract No.	CYF 8971

BACKGROUND:

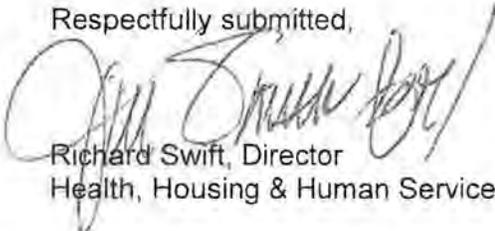
The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a Local Grant Agreement with Clackamas County Children's Commission to provide parent education and skills training to a minimum of 30 parents. Classes will improve the quality of parent/child interaction and support healthy child development. Services are paid on a cost reimbursement basis.

This Agreement has a maximum value of \$9,500. No County General funds are involved and no match is required. It is effective August 1, 2018 and terminates June 30, 2019. It have been reviewed and approved by County Counsel.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
 Health, Housing & Human Services

**CLACKAMAS COUNTY, OREGON
LOCAL SUBRECIPIENT GRANT AGREEMENT CYF-8971**

Program Name: **Clackamas County Children's Commission Head Start (CCCCHS) OPEC Parenting Education**

Program/Project Number: CYF-8971

This Agreement is between **Clackamas County, Oregon**, acting by and through its Health, Housing & Human Services Children, Youth & Families Division (COUNTY) and **Clackamas County Children's Commission-Head Start (CCCCHS)** (SUBRECIPIENT), an Oregon Non-profit Organization.

COUNTY Data

Grant Accountant: Larry Crumbaker

Clackamas County Finance
2051 Kaen Rd.
Oregon City, OR 97045
503-742-5429
mmorasko@clackamas.us

Program Coordinator: Chelsea Hamilton

Clackamas County Children, Youth & Families Division
150 Beaver creek Rd.
Oregon City, OR 97045
503-650-5682
chamilton@clackamas.us

SUBRECIPIENT Data

Finance/Fiscal Representative: Doug Kohnke

Clackamas County Children's Commission
16518 SE River Road
Milwaukie, OR 97267
503.675.4565
douqk@cccchs.org

Program Representative: Linda Dorzweiler

Clackamas County Children's Commission
16518 SE River Road
Milwaukie, OR 97267
503.675.4565
lindad@cccchs.org

FEIN: 93-0624672

RECITALS

1. Clackamas County Children's Commission Head Start (SUBRECIPIENT), a local Nonprofit 501(c)(3) organization, was selected through a competitive process to provide parenting classes to parents with children (prenatal to age six) to increase parenting skills and knowledge of healthy child development and to promote early learning and readiness for kindergarten. SUBRECIPIENT enhances access to this service across the county and has demonstrated capacity to deliver evidence-based parenting programs.
2. SUBRECIPIENT will conduct two English class series of Circle of Security and 1 Spanish class series of Abriendo Puertas with a minimum of 10 unduplicated parents each series (total of 30 parents). Parents will expand their knowledge about child development, build effective parenting skills, and strengthen parent-child relationships – resulting in enhanced children's health, development, and school readiness.
3. The Oregon Community Foundation – Oregon Parenting Education Collaborative (OPEC), which funds this Agreement, is a multi-year initiative to expand access to high-quality parenting programs and develop a stronger and more coordinated parenting education system in order to reach Clackamas County parents with young children, and especially those who are English language learners, low income, living in rural communities, and/or are otherwise traditionally underserved, lack adequate access to evidence-based parenting education.
4. This Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by County relating to the project incurred no earlier than August 1, 2018 and not later than June 30, 2019, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. SUBRECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Oregon Community Foundation – Oregon Parenting Education Collaborative Grant Agreement that is the source of the grant funding.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the Oregon Parenting Education Collaborative issued to the COUNTY by the Oregon Community Foundation. The maximum, not to exceed, grant amount that the COUNTY will pay on this Agreement is **\$9,500**.
5. **Disbursements.** This is a cost reimbursement grant and disbursements will be made monthly in accordance with the requirements contained in Exhibit D: Request for Reimbursement.

Failure to comply with the terms of this Agreement may result in withholding of payment.

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.
8. **Funds Available and Authorized.** The COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this Agreement.
10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:

- a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
- b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned". All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
- c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of the original grant application or Agreement.
- d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with Oregon Community Foundation Oregon Parenting Education Collaborative.
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
- f) **Match.** Matching funds are not required for this Agreement.
- g) **Payment.** Routine requests for reimbursement should be submitted monthly by the 15th of the following month using the form and instructions in Exhibit D: Request for Reimbursement. SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement.
- h) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibit C: SUBRECIPIENT Performance Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit D: Request for Reimbursement. All reports must be submitted on the templates provided and be signed and dated by an authorized official of SUBRECIPIENT.
- i) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- j) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, the Oregon Community Foundation, and their duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
- k) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2019), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

- l) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this Agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

11. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request COUNTY resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

12. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY, its elected officials, officers, employees and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- b) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
 - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury, death, and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its elected officials, officers, employees and agents. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. The policy(ies) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

- 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this Agreement, with limits not less than \$2,000,000 per occurrence for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
- 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its elected officials, officers, employees and agents" as an additional insured, but only with respect to SUBRECIPIENT's activities under this Agreement.
- 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
- 7) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
- 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
- 11) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.

- c) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part with the express written approval of the COUNTY.
- d) **Independent Status.** SUBRECIPIENT is independent of the COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of the COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind the COUNTY in any transaction or activity.
- e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- f) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state. Any litigation between the COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- g) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- i) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

(Signature Page Attached)

SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT

(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

SUBRECIPIENT

Clackamas County Children's Commission
16518 SE River Road
Milwaukie, OR 97267

CLACKAMAS COUNTY

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

By: 
Sue Elder, Executive Director

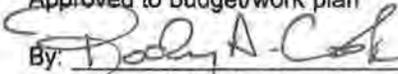
Dated: 8/16/18

Signing on behalf of the Board:

By: _____
Richard Swift, Director
Health, Housing & Human Services

Dated: _____

Approved to budget/work plan

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

Dated: 8/27/18

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

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Local Grant Agreement with Todos Juntos
for Evidence-based Parenting Education Classes

Purpose/Outcomes	Provide parenting education classes, enhance teaching skills and competencies of parents to promote child social/emotional well-being and pre-literacy and pre-numeracy skills
Dollar Amount and Fiscal Impact	Agreement has a maximum value of \$13,744. No match is involved
Funding Source	Oregon Community Foundation. No County general funds are involved
Duration	Effective August 1, 2018 and terminates on June 30, 2019
Previous Board Action	N/A
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook 503-650-5677
Contract No.	CYF 8970

BACKGROUND:

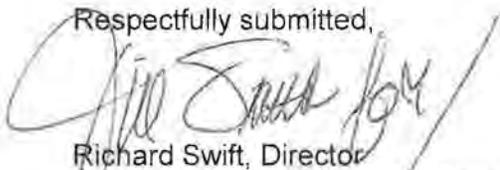
The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a Local Grant Agreement with Todos Juntos to provide parent education and skills training to a minimum of 30 parents. Classes will improve the quality of parent/child interaction and support healthy child development. Services are paid on a cost reimbursement basis.

This Agreement has a maximum value of \$13,744. No County General funds are involved and no match is required. It is effective August 1, 2018 and terminates June 30, 2019. It have been reviewed and approved by County Counsel.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services

**CLACKAMAS COUNTY, OREGON
LOCAL SUBRECIPIENT GRANT AGREEMENT CYF-8970**

Program Name: ***Todos Juntos OPEC Parent Education Classes***

Program/Project Number: CYF-8970

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

COUNTY Data

Grant Accountant: Larry Crumbaker	Program Coordinator: Chelsea Hamilton
Clackamas County Finance 2051 Kaen Road Oregon City, OR 97045 503-742-5429 larrycrum@clackamas.us	Clackamas County Children, Youth & Families Division 150 Beaver Creek Rd. Oregon City, OR 97045 503-650-5682 chamilton@clackamas.us

SUBRECIPIENT Data

Finance/Fiscal Representative: Eric Johnston	Program Representative: Shawna Johnson
Todos Juntos PO Box 645 Canby, OR 97013 503.544.1513 ejtodosjuntos@comcast.net	Todos Juntos PO Box 645 Canby, OR 97013 503- 341-3381 shawnaj@todos-juntos.net
FEIN: 93-1308023	

RECITALS

1. Todos Juntos will conduct one Spanish and one English class series of *Make Parenting a Pleasure* with a minimum of 20 unduplicated parents (10 English and 10 Spanish speakers), and one English series of *Parenting Now* with a minimum of 10 parents by June 30, 2019. Parents will expand their knowledge about child development, build effective parenting skills, and strengthen parent-child relationships – resulting in enhanced children's health, development, and school readiness.

Todos Juntos, a local Nonprofit 501(c)(3) organization, was chosen by CYF through a competitive process to provide parenting classes to parents with children prenatal to age six. Todos Juntos has a reputation throughout the rural community for providing evidence-based parenting programs and support services.

2. This Grant Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall be effective as of August 1, 2018 and shall expire on June 30, 2019, 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 Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of The Oregon Community Foundation Grant Agreement that is the source of the grant funding
4. **Grant Funds.** The COUNTY's funding for this Agreement is the OPEC Parenting Education Collaborative Hub issued to the COUNTY by The Oregon Community Foundation. The maximum, not to exceed, grant amount that the COUNTY will pay is **\$13,744**.
5. **Disbursements.** This is a cost reimbursement grant and disbursements will be made monthly in accordance with the requirements contained in Exhibit D: Request for Reimbursement. Failure to comply with the terms of this Agreement may result in withholding of payment.
6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.
8. **Funds Available and Authorized.** The COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.
10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned." All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
 - c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT may not transfer grant funds between budget

lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of the original grant application or agreement.

- d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with provisions as set forth by The Oregon Community Foundation as follows:
- Delivery of best practice parenting education programs, with a focus on programs for parents with children prenatal to age six, through home visiting and/or group based classes. Eligible costs include facilitator preparation and delivery time; food, incentives, and/or child care for participants; and transportation for participants, as appropriate.
 - Coordination and administration costs, including activities to establish and/or expand the Hub organization; convene partners to discuss and develop the region's parenting education framework, plan and set priorities; develop or improve the region's parenting education framework; and develop or improve access to information about available programs.
 - Facilitator training and supervision.
 - Purchase of curriculum and other materials.
 - Public awareness activities and materials.
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
- f) **Match.** Matching funds are not required for this Agreement
- g) **Payment.** Routine requests for reimbursement should be submitted monthly by the 15th of the following month using the form and instructions in Exhibit D: Request for Reimbursement. SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement.
- h) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibit C: SUBRECIPIENT Performance Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit D: Request for Reimbursement. All reports must be submitted on SUBRECIPIENT letterhead, must reference this agreement number, and be signed and dated by an authorized official of SUBRECIPIENT.
- i) **Lobbying.** Not applicable to this grant.
- j) **Audit.** Not applicable to this grant.
- k) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, the Oregon Community Foundation, the Secretary of the State of Oregon, and their duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
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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, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

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- 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.
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- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.
- 6) **Minors.** Not applicable to this grant.
- 7) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
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- 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.
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- 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.

SUBRECIPIENT

Todos Juntos
PO Box 645
Canby, OR 97013

CLACKAMAS COUNTY

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

Signing on behalf of the Board:

By: Marilyn Moore Sec/Treas By: _____
Eric Johnston, Executive Director *BOJ* Richard Swift, Director
Health, Housing & Human Services

Dated: 8-20-18

Dated: _____

Approved as to budget and work plan

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

Dated: 8/27/18

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

COPY

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Local Grant Agreement with Northwest Family Services
for Evidence-based Parenting Education Classes

Purpose/Outcomes	Provide parenting education classes, enhance teaching skills and competencies of parents to promote child social/emotional well-being and pre-literacy and pre-numeracy skills
Dollar Amount and Fiscal Impact	Agreement has a maximum value of \$21,750. No match is involved
Funding Source	Oregon Community Foundation. No County General funds are involved.
Duration	Effective August 1, 2018 and terminates on June 30, 2019
Previous Board Action	N/A
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook 503-650-5677
Contract No.	CYF 8973

BACKGROUND:

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a Local Grant Agreement with Northwest Family Services to provide parent education and skills training to a minimum of 40 parents. Classes will improve the quality of parent/child interaction and support healthy child development. Services are paid on a cost reimbursement basis.

This Agreement has a maximum value of \$21,750. No County General funds are involved and no match is required. It is effective August 1, 2018 and terminates June 30, 2019. It has been reviewed and approved by County Counsel.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services

CLACKAMAS COUNTY, OREGON
LOCAL SUBRECIPIENT GRANT AGREEMENT CYF-8973

Program Name: *Northwest Services OPEC Parenting Education*

Program/Project Number: CYF-8973

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

COUNTY Data

Grant Accountant: Larry Crumbaker	Program Coordinator: Chelsea Hamilton
Clackamas County Finance 2051 Kaen Rd. Oregon City, OR 97045 503-742-5429 larrycrum@clackamas.us	Clackamas County Children, Youth & Families Division 150 Beavercreek Rd. Oregon City, OR 97045 503-650-5682 chamilton@clackamas.us

SUBRECIPIENT Data

Finance/Fiscal Representative: Rose Fuller	Program Representative: Rose Fuller
Northwest Family Services 6200 SE King Rd. Portland, OR 97222 503-546-6377 rfuller@nwfs.org FEIN: 93-0841022	Northwest Family Services 6200 SE King Rd. Portland, OR 97222 503-546-6377 rfuller@nwfs.org

RECITALS

1. Northwest Family Services (SUBRECIPIENT), a local Nonprofit 501(c)(3) organization, was selected through a competitive process to provide parenting classes to parents with children up to age six to increase parenting skills and knowledge of healthy child development and to promote early learning and readiness for kindergarten. SUBRECIPIENT enhances access to this service across the county and has demonstrated capacity to deliver evidence-based parenting programs.
2. SUBRECIPIENT will conduct two Spanish class series of Abriendo Puertas (total of 10 sessions each), with a minimum of 10 unduplicated parents per series, two English class series of Incredible Years (total of 12 sessions each), with a minimum of 10 unduplicated parents per series and provide childcare services to community parenting groups. Parents will expand their knowledge about child development, build effective parenting skills, and strengthen parent-child relationships – resulting in enhanced children's health, development, and school readiness.
3. The Oregon Community Foundation – Oregon Parenting Education Collaborative (OPEC), which funds this Agreement, is a multi-year initiative to expand access to high-quality parenting programs and develop a stronger and more coordinated parenting education system in order to reach Clackamas County parents with young children, and especially those who are English language learners, low income, living in rural communities, and/or are otherwise traditionally underserved, lack adequate access to evidence-based parenting education.
4. This Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by County relating to the project incurred no earlier than August 1, 2018 and not later than June 30, 2019, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. SUBRECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Oregon Community Foundation – Oregon Parenting Education Collaborative Grant Agreement that is the source of the grant funding.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the Oregon Parenting Education Collaborative issued to the COUNTY by the Oregon Community Foundation. The maximum, not to exceed, grant amount that the COUNTY will pay on this Agreement is **\$21,750**.
5. **Disbursements.** This is a cost reimbursement grant and disbursements will be made monthly in accordance with the requirements contained in Exhibit D: Request for Reimbursement.

Failure to comply with the terms of this Agreement may result in withholding of payment.
6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.
8. **Funds Available and Authorized.** The COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this Agreement.

10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:
- a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned". All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
 - c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of the original grant application or Agreement.
 - d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with Oregon Community Foundation Oregon Parenting Education Collaborative.
 - e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
 - f) **Match.** Matching funds are not required for this Agreement.
 - g) **Payment.** Routine requests for reimbursement should be submitted monthly by the 15th of the following month using the form and instructions in Exhibit D: Request for Reimbursement. SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement.
 - h) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibit C: SUBRECIPIENT Performance Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit D: Request for Reimbursement. All reports must be submitted on the templates provided and be signed and dated by an authorized official of SUBRECIPIENT.
 - i) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
 - j) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, the Oregon Community Foundation, and their duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
 - k) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2019), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

- l) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this Agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

11. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request COUNTY resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

12. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY, its elected officials, officers, employees and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- b) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
 - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury, death, and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its elected officials, officers, employees and agents. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. The policy(ies) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

- 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this Agreement, with limits not less than \$2,000,000 per occurrence for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
- 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its elected officials, officers, employees and agents" as an additional insured, but only with respect to SUBRECIPIENT's activities under this Agreement.
- 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
- 7) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
- 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
- 11) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.

- c) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part with the express written approval of the COUNTY.
- d) **Independent Status.** SUBRECIPIENT is independent of the COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of the COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind the COUNTY in any transaction or activity.
- e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- f) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state. Any litigation between the COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- g) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- i) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

(Signature Page Attached)

SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT

(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

SUBRECIPIENT

Northwest Family Services
256 Warner Milne Road
Oregon City, OR 97045

CLACKAMAS COUNTY

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

By: 
Rose Fuller, Executive Director

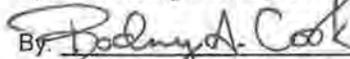
Dated: 8/21/18

Signing on behalf of the Board:

By: _____
Richard Swift, Director
Health, Housing & Human Services

Dated: _____

Approved budget/work plan

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

Dated: 8/27/18

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

September 20, 2018

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Professional Services Agreement with Craig R. Warden, to provide services as the Associate Emergency Medical Services (EMS) Medical Director

Purpose/Outcomes	Serve as the Associate Emergency Medical Services Medical Director, the medical advisor to the County on EMS clinical matters, including emergency preparedness planning efforts
Dollar Amount and Fiscal Impact	Contract maximum value is \$233,646.33
Funding Source	Emergency Medical Services. No County General Funds are involved.
Duration	Effective August 01, 2018 and terminates on June 30, 2023
Previous Board Action	No Previous Board Actions
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Dawn Emerick, Public Health Director – 503-655-8479
Contract No.	8925

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Agreement with Craig R. Warden, to provide services as the Associate Emergency Medical Services (EMS) Medical Director.

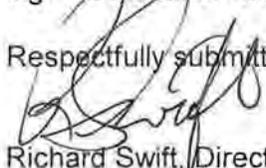
The Associate EMS Medical Director serves as back up to the Emergency Medical Services Medical Director. Serves as lead Medical Director for the Clackamas County Department of Communications (C-COM) and the lead Medical Director for the Reach & Treat Team and River Rescue Program.

This contract is effective August 1, 2018 and continues through June 30, 2023. This contract has been reviewed by County Counsel on July 16, 2018.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
 Health, Housing, and Human Services



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between Craig R. Warden ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of Public Health.

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective upon September 1, 2018. Unless earlier terminated or extended, this Contract shall expire on August 31, 2023. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

2. Scope of Work. Contractor will provide the following personal/professional services: Associate Emergency Medical Services Medical Director ("Work"), further described in Article III.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed two hundred forty-one thousand nine hundred three dollars and five cents (\$241,903.05), for accomplishing the Work required by this Contract. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Article III.

4. Travel and Other Expense. Authorized: [X] Yes [] No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

5. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract and Exhibits A and B.

6. Contractor Data.

Address: 4908 NE Tillamook Street, Portland, Oregon 97213

Contractor Contract Administrator: Craig Warden

Phone No.: (503) 318-6430

Email: wardenc711@comcast.net

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

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

ARTICLE II.

1. ACCESS TO RECORDS. Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the

conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.

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

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

- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Article IV**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.

The County shall reimburse Contractor for the Cost of Professional Liability insurance coverage, which shall not exceed fifty percent (50%) of the actual cost of coverage, and shall not exceed \$2,000.00 per year. Contractor must submit the original invoice form their insurance broker each year the Contractor invoices the County for reimbursement.

If required, liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the expiration or termination of this Contract for a duration of thirty-six (36) months or a maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, or continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. The Contractor shall be responsible for the cost of the "tail" coverage.

- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is

contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

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

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

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

20. AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY

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

- 22. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 23. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 24. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 25. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 26. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 27. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 28. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.

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

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

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

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

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

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

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

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

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

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

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

Article III - SCOPE OF WORK

Contractor Responsibilities:

1. Serve as Associate Emergency Medical Services Medical Director (EMSMD), a medical advisor to the County on EMS matters, including emergency preparedness, and acts as agent for the Clackamas County EMSMD.
2. Serve as lead Medical Director for the Clackamas County Department of Communications (C-COM).
3. Serve as lead Medical Director for the Reach & Treat Team and River Rescue Program.
4. Assist EMSMD in implementing a county-wide coordinated Quality Improvement Program.
5. The Quality Improvement Program will be integrated to include PSAP handling of medical calls, communications center EMS operations, Emergency Medical and Priority Dispatch, first response agencies, ambulance service providers and other related agencies and programs. Each agency Supervising Physician will be responsible for administering the Quality Improvement Program within each agency and assuring that the agency participates in the countywide program.
6. Participate in the resolution of quality assurance problems.
7. Urgent issues and complaints of an egregious clinical nature may be referred directly to the County EMS Medical Director for assistance in generating an immediate investigation and/or intervention. Complaints of a clinical nature and those that may have clinical components will be referred to the agency Supervising Physician and EPAB for investigation.
8. Participate with the EPAB.

9. Implement protocols for Emergency Medical Dispatch and Priority Dispatch.
10. Assist EMSMD in establishing standards for certification, equipment, standards of care, clinical protocols and patient hand-off procedures for Participating Provider agencies.
11. Assist the County in disaster preparedness and response.

Contractor Requirements

Contractor must maintain at all times during the term of the Contract or any renewal period the following:

- Must currently have and maintain an Oregon M.D. or D.O. license;
- **Must be board certified or board eligible in Emergency Medicine and/or Emergency Medical Services;**
- Provide current evidence of credentials, curriculum vitae, and continuing medical education activities;
- Provide current DEA license for controlled medications; and
- **Able to qualify as an Oregon EMS physician supervisor (per OAR 847-035-0020)**

The County Contract administrator for this Contract is: Philip Mason-Joyner

CONSIDERATION

- a. Consideration Rates – Time and material basis in accordance with the following fee schedule:

	Year 1	Year 2	Year 3	Year 4	Year 5
Hourly rate (3% COLA)	\$140.00	\$144.20	\$148.53	\$152.98	\$157.57
Hourly Rate estimated on 6 hours per week (312)	\$43,680.00	\$44,990.40	\$46,340.11	\$47,730.32	\$49,162.22
Estimated Cost of Insurance	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
Total Annual Amount	\$45,680.00	\$46,990.40	\$48,340.11	\$49,730.32	\$51,162.22
Total Contract Value					\$241,903.05
MONTHLY STIPEND	\$3,640.00	\$3,749.20	\$3,861.68	\$3,977.53	\$4,096.85

- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of \$241,903.05.
- c. CONTRACTOR shall submit invoices by the fifteenth day of the month following that in which service was performed. **The invoice shall list the contract #8924, month and year of service, monthly Stipend amount as described in CONSIDERATION Section a. above and a written description of work activities performed (e.g. meetings attended, significant milestones and actions) for the reporting period.** Invoices should also include reimbursement of reasonable expenses as approved by the County in advance and mileage at the standard County rate. Contractor agrees to provide an average minimum of approximately six hours of service per week. If weekly service hours fall below 6 hours per week, the County reserves the right to revert to time and material billing based on true and verifiable documentation. Travel time shall not be considered in determination of service hours. Invoices shall be submitted electronically to: PublicHealthAP@clackamas.us and PMason@clackamas.us
- d. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. **If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor.** Payments shall be made to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum

compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

Article IV - INSURANCE

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

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

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

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

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

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

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

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

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

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

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

Article V - CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR

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

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

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

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

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

Additional provisions:

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

Signature on Next Page

Article VI – SIGNATURES

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

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

CRAIG R. WARDEN

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS by:

Craig R Warden

Digitally signed by Craig R Warden
DN: cn=Craig R Warden, o=Craig R Warden, ou,
email=warden211@comcast.net, c=US
Date: 20180828 08:45:18 -0700

Authorized Signature

Craig R. Warden, MD, MPH, MS

Name / Title Printed

08/28/2018

Date

503-318-6430//877-339-6669

Telephone / Fax Number

Oregon Business Registry #

Richard Swift, Director

Health, Housing, and Human Services

Date

September 20, 2018

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of Amendment #2 of the Grant Agreement with Oregon Health & Science University for the Oregon Care Coordination Program (CaCoon)

Purpose/Outcomes	CaCoon is an abbreviation for Oregon Care Coordination Program. Revenue from OHSU CaCoon program allows CCPHD to provide a Community Health Nurse to facilitate community-based and family-centered care coordination for children with special health needs.
Dollar Amount and Fiscal Impact	Amendment #02 increases the contract by \$10,000. Bringing the maximum contract value to \$134,000.
Funding Source	Grant funds from OHSU - No County General Funds are involved.
Duration	Effective October 1, 2017 and terminates on September 30, 2018
Previous Board Action	No Previous Board Actions
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Dawn Emerick, Public Health Director – 503-655-8479
Contract No.	8378-02

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #2 to the Grant Agreement with Oregon Health & Science University (OHSU) for the Oregon Care Coordination Program (CaCoon).

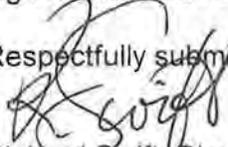
CCPHD receives grant funding from OHSU for the continuation of the Oregon Care Coordination Program (CaCoon). This grant allows CCPHD to provide a Community Health Nurse to facilitate community-based and family-centered care coordination for children with special health needs. Specific services include assessment of needs, coordination of healthcare and other services, and knowledge of local comprehensive services.

This Amendment is effective October 1, 2017 and continues through September 30, 2018. This contract has been reviewed by County Counsel on September 11, 2018.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
 Health, Housing, and Human Services

Research Subaward Agreement Amendment Number 2

Pass-through Entity (PTE)		Subrecipient	
Institution/Organization ("PTE") Entity Name: Oregon Health & Science University Email Address: spasub@ohsu.edu Principal Investigator: Benjamin Hoffman		Institution/Organization ("Subrecipient") Entity Name: Clackamas County acting by and through its Health, Housing and Human Services Department, Public Health Division Email Address: jweber2@co.clackamas.or.us Principal Investigator: Julie Aalbers	
Project Title: Maternal and Child Health Services Block Grant			
PTE Federal Award No. B04MC29358 (Via Subaward 143021)		Federal Awarding Agency: HRSA (via the Oregon Health Authority)	
Subaward Period of Performance: Start Date: 10/01/2016 End Date: 09/30/2018		Amount Funded This Action: \$10,000	Subaward No: 1010448_CLACKAMAS_LHD
Effective Date of Amendment: 10/01/2017	Total Amount of Federal Funds Obligated to Date: \$134,000	Subject to FFATA: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Automatic Carryover: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Amendment(s) to Original Terms and Conditions

This Amendment revised the above-referenced Research Subaward Agreement as follows:

Funds for the Current Budget Period are hereby awarded in the amount of \$10,000. The total awarded for the current budget period from 10/01/2017 through 9/30/2018 is now \$72,000. The Payment Schedule in Attachment 5.1 is hereby replaced with the Payment Schedule in Attachment 5.2.

Attachment D of the Statement of Work in Attachment 5.1 is hereby replaced with Attachment D of the Statement of Work in Attachment 5.2.

All other terms and conditions of this Subaward Agreement remain in full force and effect.

By an Authorized Official of PTE _____ Date: _____ Jen Michaud Subout Grants & Contracts Administrator	By an Authorized Official of Subrecipient _____ Date: _____ Name: Title:
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Attachment D

**Clackamas County
FY18 Activity Breakdown and Payment Schedule**

Clackamas County shall complete the following:

CaCoon Activities up to 30%	SPOC Activities at least 70%	Total Subcontract 100%
\$18,600	\$53,400	\$72,000

With your SPOC activities, you agree to complete the following number of SPOC in the following categories (see Attachment A Part III (SPOC scope of work) and Attachment E for definitions of complex and further details)

8	Re-evaluation
6	New
14	Total SPOC

Each SPoC developed will serve a unique child or youth and their family.

Of the total SPOC to be completed:

a minimum of	6	must be Complex SPOCs; and
a minimum of	3	must be Transition-Focused SPOCs

Note: The transition-focused and complex requirements are not mutually exclusive. That is, a SPOC may serve a CYSHCN who is both transition-focused AND complex. In this case, the SPOC would count toward both your transition-focused requirements AND your complex requirements.

This subcontract will be paid in installments on the following schedule:

	Direct Costs	Indirect Costs	Total Costs
LHD to invoice OHSU an initial amount as soon as subcontract is fully executed	\$33,820	\$3,380	\$37,200
LHD to invoice OHSU as soon as amendment is fully executed	\$9,090	\$910	\$10,000
LHD to invoice OHSU the FINAL amount after LHD has submitted all required deliverables	\$22,545	\$2,255	\$24,800
Total Funding	\$65,455	\$6,545	\$72,000

**SUBAWARD 1010448_CLACKAMAS, Amendment 2
ATTACHMENT 5.2 – PAYMENT SCHEDULE**

**PAYMENT SCHEDULE FOR THE CURRENT BUDGET PERIOD
10/1/2017 through 09/30/2018:**

Payment Schedule:

The Payment Schedule is hereby replaced with the following:

PTE shall pay Subrecipient according to the following schedule upon receipt of invoice from Subrecipient. Invoices are to be submitted via email to spasub@ohsu.edu. If email of invoices is not possible, they may be mailed to the Financial Contact listed in Attachment 3A.

- Payment 1) Upon full execution of this Agreement and receipt of invoice, PTE will issue an advance payment of \$37,200.
- Payment 2) Upon receipt of executed amendment and receipt of invoice, PTE will issue a payment of \$10,000.
- Payment 3) Upon satisfactory completion of the Statement of Work on or after 9/30/2018, receipt of invoice and Certification of Completion per Attachment 4, PTE will issue a payment of \$24,800.

The final invoice must be received no later than 45 days after the end of the budget period and must be clearly marked "FINAL."

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #2 to an Intergovernmental Agreement with Multnomah County for the reduction of opioid overdose and death program.

Purpose/Outcomes	Amendment #2 adds funding for year 3 of the project. Clackamas County Public Health Division (CCPHD) will plan and conduct activities to meet the following objectives: Increase provider and public understanding of opioid risks, treatment options, and chronic pain management; Increase provider understanding and use of the State of Oregon's Prescription Drug Monitoring Program; Increase law enforcement and public understanding of risks, treatment, and use of naloxone; Meet weekly with Multnomah County staff, as scheduled by Multnomah County to provide plans and summaries of Clackamas's activities; Provide a written report documenting activities and related outcomes to Multnomah County at the end of the grant period.
Dollar Amount and Fiscal Impact	CCPHD will receive \$13,000.
Funding Source	Federal award passed through by Multnomah County. No County General Funds are involved.
Duration	Effective October 1, 2018 and terminates on September 30, 2019
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, health and secure communities
Previous Board Action	The Board last approved this Agreement on April 27, 2017 Agenda item – 042717-A1, October 26, 2017 – 102617 –A5
Contact Person	Dawn Emerick, Public Health Director – 503-655-8479
Contract No.	8263-2

BACKGROUND:

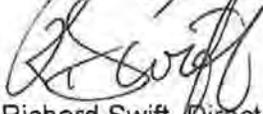
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #2 to an Intergovernmental Agreement with Multnomah County for the reduction of opioid overdose and death program. This allows the CCPHD to continue to provide related services to Clackamas County residents.

This Agreement is effective October 1, 2018 and continues through September 30, 2019.
This contract has been reviewed by County Counsel on September 11, 2018.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", written over a horizontal line.

Richard Swift, Director
Health, Housing, and Human Services

MULTNOMAH COUNTY
INTERGOVERNMENTAL AGREEMENT AMENDMENT #2
(Amendment to change Contract provisions during contract term.)
Contract Number 4400003112

This is an amendment to Multnomah County's Contract referenced above effective October 1, 2018 between Multnomah County, Oregon, hereinafter referred to as County, and Clackamas County, hereinafter referred to as Contractor.

The parties agree:

1. The following changes are made to Contract No. 4400003112:
 - a. This amendment extends the end date to September 30, 2019 for Contract activities originally funded through September 30, 2018.
 - b. This amendment increased funding in the amount of \$13,000 for Contract activities from October 1, 2018 to September 30, 2019. The maximum contract amount for the period of October 1, 2016 to September 30, 2019 is \$39,000.
 - c. An amended Attachment F is attached to this contract and replaces all previous versions of Attachment F.

2. All other terms and conditions of the contract shall remain the same.

MULTNOMAH COUNTY, OREGON:

CONTRACTOR:

County Chair or Designee: _____

Date: _____

Dept Director or Designee: _____

Date: _____



8/31/2018

N/A

N/A

Signature: _____

Print Name: _____

Title: _____

Date: _____

REVIEWED:

JENNY M. MADKOUR
COUNTY ATTORNEY FOR MULTNOMAH COUNTY

By
Assistant County Attorney

/s/ Bernadette Nunley

Date: _____

Via email 8/25/2018

Approved as to form
by: _____

Date: _____

ATTACHMENT F

POST FEDERAL AWARD REQUIREMENTS STANDARDS

In accordance with CFR 200, Subpart D—Post Federal Award Requirements Standards for Financial and Program Management, §200.331 – Requirements for Pass Through Entities, and based on the information provided to Multnomah County (the County) by its awarding agency, the County is providing the following federal award information:

	A	B	C
Subrecipient Name	Clackamas County Public Health	Clackamas County Public Health	Clackamas County Public Health
Subrecipient DUNS #	96992656	96992656	96992656
Name of Federal Awarding Agency	US Department of Justice, Office of Justice Programs	US Department of Justice, Office of Justice Programs	US Department of Justice, Office of Justice Programs
Name of Pass-through Entity	Multnomah County	Multnomah County	Multnomah County
CFDA #	16.754	16.754	16.754
Program Name	Regional Approaches to Decrease Opioid Overdose and Deaths in the Portland Metropolitan Tri-County	Regional Approaches to Decrease Opioid Overdose and Deaths in the Portland Metropolitan Tri-County	Regional Approaches to Decrease Opioid Overdose and Deaths in the Portland Metropolitan Tri-County
Federal Award ID #	2016-PM-BX-K003	2016-PM-BX-K003	2016-PM-BX-K003
Federal Award Date	9/20/2016	9/20/2016	9/20/2016
Subaward Period of Performance:			
Start Date	10/1/2016	10/1/2016	10/1/2016
End Date	9/30/2019	9/30/2019	9/30/2019
Amt of Federal Funds Obligated by this Action	\$13,000	\$13,000	\$13,000
Total Amt of Federal Funds Obligated to Subrecipient	\$13,000	\$26,000	\$39,000
Federal Awarding Contact Info	Jeanne Weber 2051 Kaen Rd., Suite 367 Oregon City, OR 97045	Jeanne Weber 2051 Kaen Rd., Suite 367 Oregon City, OR 97045	Jeanne Weber 2051 Kaen Rd., Suite 367 Oregon City, OR 97045
Pass-through Entity Contact Info	Tyler Swift (503)988-9374 tyler.swift@multco.us	Tyler Swift (503)988-9374 tyler.swift@multco.us	Tyler Swift (503)988-9374 tyler.swift@multco.us
Research & Development Award? (Yes/No)	No	No	No
Indirect Cost Rate for Award (%)	9%	9%	9%
Is De Minimis Indirect Rate Being Charged? (Yes/No)	No	No	No
	D	E	F
Subrecipient Name			
Subrecipient DUNS #			
Name of Federal Awarding Agency			
Name of Pass-through Entity			
CFDA #			
Program Name			
Federal Award ID #			
Federal Award Date			
Subaward Period of Performance:			
Start Date			
End Date			
Amt of Federal Funds Obligated by this Action	Multnomah County Contract #4400003112-2		

Total Amt of Federal Funds Obligated to Subrecipient			
Federal Awarding Contact Info			
Pass-through Entity Contact Info			
Research & Development Award? (Yes/No)			
Indirect Cost Rate for Award (%)			
Is De Minimis Indirect Rate Being Charged? (Yes/No)			

8/25/2015

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of the Intergovernmental Agreement (IGA) with Portland State University for
Trauma Informed Care Training and Consultation

Purpose/Outcomes	Provides training and consultation to Behavioral Health staff and leadership for Trauma Informed Care Services.
Dollar Amount and Fiscal Impact	Maximum value of Agreement is \$10,000.
Funding Source	No County General Funds are involved. State of Oregon, Oregon Health Plan (OHP) funds
Duration	Effective Upon Signature and terminates on June 30, 2020
Previous Board Action	No previous Board action.
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director Behavioral Health Division 503-742-5305
Contract No.	#8808

BACKGROUND:

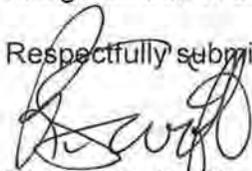
The Clackamas County Behavioral Health Division of the Housing & Human Services Department requests the approval of the Intergovernmental Agreement with Portland State University for purpose of providing Division staff and leadership with training and consultation for Trauma Informed Care. Training and consultation are to ensure that services/interventions provided by the Behavioral Health Division align with the principles of the Trauma Informed Care approach.

This Intergovernmental Agreement, with a maximum value of \$10,000, is effective upon signature and terminates June 30, 2020. County Counsel reviewed and approved this Agreement September 10, 2018.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing and Human Services

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INTERGOVERNMENTAL AGREEMENT

BETWEEN

**THE COUNTY OF CLACKAMAS, OREGON
HEALTH, HOUSING AND HUMAN SERVICES DEPARTMENT
BEHAVIORAL HEALTH DIVISION**

AND

PORTLAND STATE UNIVERSITY

PSU Contract #552915

AGREEMENT # 8808

I. PURPOSE

This Agreement is entered into between Clackamas County Department of Health, Housing and Human Services, Behavioral Health Division (County) and Portland State University, School of Social Work Regional Research Institute for Human Services (Contractor) for the cooperation of units of local government under the authority of ORS 190.010.

This Agreement provides the basis for the coordination of training and consultation regarding trauma informed care.

II. SCOPE OF WORK

A. Contractor agrees to:

1. Provide training and consultation to County staff regarding trauma informed care and best practices to implement at the health centers. Trainings to be scheduled as agreed upon by both parties.
2. Provide all training materials and handouts.
3. Provide on-site consulting regarding trauma informed care implementation in the clinics.

III. COMPENSATION

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

B. The total payment to Contractor shall not exceed **\$10,000.00**.

IV. LIAISON RESPONSIBILITY

Camilla Pettle, Assistant Manager, School of Social Work Regional Research Institute for Human Services, will act as liaison from Contractor for this project.

Mary Rumbaugh, Director, Behavioral Health Division, will act as liaison from County.

V. SPECIAL REQUIREMENTS

- A. County and Contractor agree to comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including Oregon Public Contract laws and all applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, 45 CFR Parts 160-164, as well as all applicable provisions in each party's Intergovernmental Agreement with the AMH, if any. The parties agree that the County is a covered entity for the purposes of HIPAA and any regulations and official guidance promulgated thereunder (collectively, "HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH") together referred to as the "HIPAA Privacy Regulations". The parties further acknowledge and agree that Contractor is not a "Business Associate" of County or AMH as that term is defined and used under HIPAA Privacy Regulations or the Omnibus Rules. Services provided by Contractor under this Agreement do not require access, use, or disclosure of any protected health information ("PHI"). County shall not provide any PHI to Contractor. Notwithstanding the foregoing, under no circumstances will Contractor incorporate PHI in any written record, report, or communication made with respect to the services provided under this Agreement.
- B. Within the applicable limits of the Oregon Tort Claims Act, County agrees to indemnify, protect and save Contractor, and the Contractor Board of Trustees, along with any of their past, present, or future officers, employees and agents, while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising against Contractors or Contractor's trustees, officers, and employees resulting from or arising out of, or relating to any disclosure of PHI, including a breach thereof, or compliance or failure to comply with the HIPAA Privacy Regulations.
- C. Access to Records. Each party to this Agreement, as well as the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the other party to this Agreement which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- D. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein that would conflict with law are deemed inoperative to that extent.

VI. AMENDMENT

This Agreement may be amended at any time with the concurrence of both parties. Any changes in the proposed budget or scope of work will be negotiated between the designated liaisons.

Amendments become a part of this Agreement only after the written amendment has been signed by both parties.

VII. TERM OF AGREEMENT

This Agreement becomes effective **upon signature and terminates June 30, 2020.**

This Agreement is subject to termination by either of the parties when thirty (30) days' written notice has been provided.

VIII. TERMINATION

In addition to the termination provisions in **Section VII** above, this Agreement may be terminated or suspended by either party upon the material non-compliance by the other party with any of its obligations under this Agreement. This Agreement may also be terminated at the discretion of either party upon 30 days' written notice to the other party.

IX. INDEMNIFICATION

To the extent permitted by the Oregon Constitution and subject to the liability limits stated in the Oregon Tort Claims Act, each party to this Agreement shall defend, indemnify and hold the other party harmless against all liability, loss, or expenses, and against all claims, actions or judgments based upon or arising out of damage or injury (including death) to persons or property to the extent caused by or resulting from its negligent act, errors, or omissions by the indemnifying party or its agents and employees in connection with the performance of this Agreement.

X. APPLICABILITY OF EXHIBITS

Exhibit C, OHP Required Federal Terms and Conditions are applicable only if Federal Funds are used to finance the compensation amount set forth in Exhibit B, Compensation. County and Contractor agree that the compensation amount set forth in Exhibit B, will be financed entirely with non-federal funds and the terms and conditions set forth in Exhibit C shall not be applicable to the services performed by Contractor under this agreement.

Exhibit D, Statement of General Conditions. To the extent applicable to the services provided by Contractor under this agreement, Contractor agrees to comply with the provisions set forth in Exhibit D. Notwithstanding, County and Contractor agree that: (i) the services provided by Contractor under this agreement do not require license, registration, or certification; and (ii) no services will be provided to clients of County.

This Agreement consists of ten (10) sections plus the following exhibits that by this reference are incorporated herein:

- Exhibit A Definitions
- Exhibit B Compensation
- Exhibit C OHP Required Federal Terms and Conditions (*Applicable only to the extent that Federal funds are used to pay the Contractor the compensation amount set forth in Exhibit B.*)
- Exhibit D Statement of General Conditions

(Signature page follows)

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of U.S. Department of Housing & Urban Development (HUD)
Funding for Section 108 Loan Pool

Purpose/Outcomes	Board of County Commissioners' approval of a U.S. Department of Housing and Urban Development (HUD) Funding Approval of the Section 108 Loan Pool program.
Dollar Amount and Fiscal Impact	\$11,100,000 Section 108 Loan Guarantee funds to establish a loan pool for eligible community development projects.
Funding Source	U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) Section 108 program No County General Funds are involved.
Duration	20 years - 2019 to 2039
Previous Board Action	BCC Public Hearing on June 21, 2018. BCC approved submittal of a Section 108 application to HUD.
Strategic Plan Alignment	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities
Contact Person	Chuck Robbins, Community Development Director - (503) 655-8591
Contract No.	N/A

BACKGROUND:

The Housing and Community Development Division of the Health, Housing and Human Services Department requests the BCC's approval to enter into an agreement with HUD for \$11,100,000 of Section 108 Loan Pool funds. The U.S Department of Housing and Urban Development (HUD) Section 108 Loan Guarantee Program provides communities with a source of financing for large economic development, housing rehabilitation, public facility, and physical development projects. The funds can be used by a designated public entity to undertake eligible projects, or, alternatively, can be loaned to third party developers to undertake the projects.

HUD requires that current and future CDBG allocations be used as security for the loan. However, the primary goal is to award Section 108 funds to projects that have sufficient cash flow to repay the loan without any need for repayment from CDBG dollars. The size of the loan pool is calculated as 5 times the Clackamas County CDBG annual allocation which amounts to \$11.1 million.

The Housing and Community Development Division (HCD) Section 108 Loan program funds would create a loan pool for:

- Acquiring property for affordable housing

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

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

Section 108 funded projects/activities must comply with all CDBG rules including:

- At least 70% of funds directed to Low/Moderate Income (LMI) populations
- Environmental review
- Davis Bacon (prevailing wages)
- Uniform Relocation Act
- Office of Management and Budget circulars, as applicable
- Fair housing/equal opportunity
- Lead Based Paint

Each individual project loan that requests funds from the Section 108 Loan Pool will be submitted to the Board of County Commissioners for approval prior to submittal to HUD. Project loans would be funded by the Section 108 Program and loan repayments, including principle, interest and fees would be made by the borrowing entity.

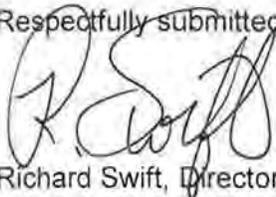
Each project loan would have a 20-year term with an initial interest rate that is variable based on the London Inter Bank Offered Rate (LIBOR) until the loan becomes permanent with a fixed interest rate based on U.S. Treasury Yields with a current interest rate of approximately 3%.

RECOMMENDATION:

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

- 1) Authorize the Director of Health, Housing and Human Services to sign the HUD award on behalf of the Board;
- 2) Direct the Housing and Community Development Division staff to establish policies and procedures for the Section 108 Loan Pool program and work with County Finance to confirm accounting processes for loans and payments;
- 3) Direct the Housing and Community Development Division staff to collect and evaluate individual Section 108 project loan applications for approval by the Board.

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services Department

Attachments:

HUD Award Letter

HUD Funding Approval/Agreement



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

AUG 23 2018

Mr. Jim Bernard
Clackamas County Commission Chair
2051 Kaen Road
Oregon City, OR 97045

Dear Chair Bernard:

Congratulations! I am pleased to inform you that the County of Clackamas's (hereafter, the "County") request for loan guarantee assistance under Section 108 of the Housing and Community Development Act of 1974, as amended, has been approved. Such assistance is to consist of the guarantee of notes or other obligations in the principal amount of \$11,100,000, plus interest thereon, which shall be issued to finance activities described in the County's application (B-18-UC-41-0001) for the Housing and Community Development Loan Fund project.

This offer of commitment ("Commitment") is subject, however, to the conditions specified in Item 8 of the Funding Approval (Form HUD-7082).

The first condition provides that in the event the County fails to submit notes or other obligations for inspection and guarantee by the Secretary of Housing and Urban Development (HUD) before December 31, 2019, the Commitment will expire as of such date.

The second condition provides that the repayment schedule for the indebtedness evidenced by the notes or other obligations (the "Guaranteed Loan") must be acceptable to HUD.

The third condition provides that the County shall provide additional security for the Guaranteed Loan and such additional security must be acceptable to HUD. The additional security shall be identified in the Contract for Loan Guarantee Assistance ("Contract"), specified by 24 CFR 570.705(b)(1), which will be executed at the time the guaranteed obligations are issued. The County's application and other supporting material identify the County's pledge of its interest in third party loans as additional security for the Guaranteed Loan.

In addition, the Contract shall provide that HUD may use existing pledged grants to prepay (or defease) the Guaranteed Loan if HUD determines that the standard pledge of future Community Development Block Grant ("CDBG") funds is insufficient to assure payment of amounts due thereunder. HUD reserves the right to require further security upon evaluation of the foregoing security arrangements and the County may substitute other collateral security for such arrangements, subject to HUD's approval of such substitution.

The fourth condition provides that prior to submitting notes or other obligations for inspection and guarantee by HUD, the County shall submit information required under Section 102(b) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545). This information shall be submitted on Form HUD-2880 to HUD's Portland Field Office. A copy of Form HUD-2880 is enclosed for this purpose.

The fifth condition provides that the County is required to pay a fee of 2.365% of the principal amount of loan guaranteed under this Commitment to cover the credit subsidy costs as announced in the *Federal Register* on September 25, 2017 (82 FR 44649). This fee applies to all Section 108 guaranteed loan commitments issued in Fiscal Year 2018. The fee is applied only at the time of loan disbursements. The amount to be paid at that time is equal to 2.365% of the principal amount of the requested Guaranteed Loan advance. The fee may be paid directly by the County or, alternatively, it may be deducted from the Guaranteed Loan advance(s). If the fee is paid directly by the County, it may be paid from CDBG grant funds drawn down under the CDBG line of credit or with another source.

The sixth condition provides that the County and any County-assisted public entity shall not incur any obligations to be paid with guaranteed loan funds prior to the receipt of a written determination from the HUD Portland Field Office that either (i) each individual activity to be undertaken or supported with loan guarantee funds meets the eligibility requirements of 24 CFR 570.703, the national objective requirements of 24 CFR 570.208 and, if applicable, the public benefit standards of 24 CFR 570.209(b), or (ii) the Field Office has determined that the County's procedures for assuring compliance with the program requirements are acceptable.

The sixth condition provides that guaranteed loan funds may not be provided to a for-profit entity pursuant to 24 CFR 570.203(b) and 570.703(i) for assistance to carry out an economic development project unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 – "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." This condition is necessary to ensure consistency in the treatment of the assistance for the activity described in the Section 108 application and the requirements that apply to grant funds pledged as security for the repayment of the Guaranteed Loan.

In addition to the special conditions cited above, the release of funds for the project to be carried out with loan guarantee assistance is conditioned upon compliance by the County with all applicable provisions of the HUD Environmental Review Procedures (24 CFR Part 58). The County is reminded that these Procedures include limitations on the commitment of HUD and non-HUD funds on an activity or project prior to HUD's approval of the request for release of funds and related certification of compliance with environmental requirements. Please refer to 24 CFR 58.22 for a description of the limitations and the entities to whom they apply.

Please furnish us, at the address specified below, your timetable for execution of the activities described in your application. These activities will be financed through a public offering of Section 108 obligations. If you need funds prior to the next public offering, please notify HUD at the address below and instructions for obtaining interim financing will be provided.

Please execute the three enclosed copies of the Funding Approval (Form HUD-7082) and return two copies to the Department of Housing and Urban Development, Financial Management Division, Room 7180, 451 Seventh Street, S.W., Washington, D.C. 20410. One copy should be retained for your files. The Funding Approval amends the Grant Agreement authorized by HUD on August 1, 2018, under the Funding Approval for grant number B-18-UC-41-0001 to include loan guarantee assistance. The Grant Agreement thereby incorporates this Funding Approval, the loan guarantee application, and Subpart M of the block grant regulations governing loan guarantees, as well as such agreements, schedules, and other documentation required for submission or execution in connection therewith.

Please do not hesitate to reach out if we can support you in the use of your Section 108 funds. Please contact Paul D. Webster, Director, Financial Management Division at (202) 402-4563, if you need assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stanley Gimort".

Stanley Gimort
Deputy Assistant Secretary
for Grant Programs

Enclosures (2)

Funding Approval/Agreement

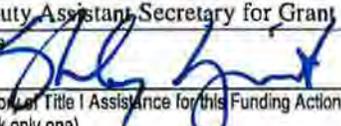
Title I of the Housing and Community Development Act (Public Law 930383)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

HI-00515R of 20515R

1. Name of Grantee (as shown in item 5 of Standard Form 424) COUNTY OF CLACKAMAS, OR	3. Grantee's 9-digit Tax ID Number	4. Date use of funds may begin (mm/dd/yyyy)
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 2051 Kaen Road #245 Oregon City, OR 97045	5a. Project/Grant No. 1 B-18-UC-41-0001	6a. Amount Approved
	5b. Project/Grant No. 2	6b. Amount Approved
	5c. Project/Grant No. 3	6c. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) Stanley Gimont	Grantee Name COUNTY OF CLACKAMAS, OREGON
Title Deputy Assistant Secretary for Grant Programs	Title
Signature 	Signature
Date (mm/dd/yyyy) AUG 23 2018	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action (check only one) <input type="checkbox"/> a. Entitlement, Sec 106(b) <input type="checkbox"/> b. State-Administered, Sec 106(d)(1) <input type="checkbox"/> c. HUD-Administered Small Cities, Sec 106(d)(2)(B) <input type="checkbox"/> d. Indian CDBG Programs, Sec 106(a)(1) <input type="checkbox"/> e. Surplus Urban Renewal Funds, Sec 112(b) <input type="checkbox"/> f. Special Purpose Grants, Sec 107 <input checked="" type="checkbox"/> g. Loan Guarantee, Sec 108	8. Special Conditions (check one) <input type="checkbox"/> None <input checked="" type="checkbox"/> Attached	9a. Date HUD Received Submission (mm/dd/yyyy)	10. check one <input checked="" type="checkbox"/> a. Orig. Funding Approval <input type="checkbox"/> b. Amendment Amendment Number
		9b. Date Grantee Notified (mm/dd/yyyy)	
9c. Date of Start of Program Year (mm/dd/yyyy)			
11. Amount of Community Development Block Grant			
a. Funds Reserved for this Grantee	FY ()	FY ()	FY ()
b. Funds now being Approved			
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved \$11,100,000	12b. Name and complete Address of Public Agency
Loan Guarantee Acceptance Provisions for Designated Agencies: The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.	12c. Name of Authorized Official for Designated Public Agency
	Title
	Signature

HUD Accounting use Only

Batch	TAC	Program Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153										
	176										
							Project Number		Amount		
							Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By
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8. Special Conditions.

- (a) In the event the County of Clackamas (the "County") fails to submit notes or other obligations for inspection and guarantee by the Secretary of Housing and Urban Development (the "Secretary") before December 31, 2019, the commitment will terminate and expire as of such date.
- (b) The repayment schedule for the County's debt obligation, as defined in 24 CFR 570.701, must be acceptable to the Secretary.
- (c) Pursuant to 24 CFR 570.705(b)(3), the County shall provide additional security for the Guaranteed Loan and such additional security must be acceptable to the Secretary. The additional security shall be identified in the Contract for Loan Guarantee Assistance specified by 24 CFR 570.705(b)(1), which will be executed at the time the guaranteed obligations are issued.
- (d) Prior to submitting notes or other obligations for inspection and guarantee by the Secretary, the County shall submit information required under Section 102(b) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545). This information shall be submitted on Form HUD-2880 to HUD's Portland Field Office.
- (e) The County is required to pay a fee of 2.365% of the principal amount of loan guaranteed and advanced under this Commitment to cover the credit subsidy costs as announced in the *Federal Register* on September 25, 2017 (82 FR 44649).
- (f) The County and any County-assisted public entity shall not incur any obligations to be paid with guaranteed loan funds prior to the receipt of a written determination from the HUD Portland Field Office that either (i) each individual activity to be undertaken or supported with loan guarantee funds meets the eligibility requirements of 24 CFR 570.703, the national objective requirements of 24 CFR 570.208 and, if applicable, the public benefit standards of 24 CFR 570.209(b), or (ii) the Field Office has determined that the County's procedures for assuring compliance with the program requirements are acceptable.
- (g) Guaranteed loan funds may not be provided to a for-profit entity pursuant to 24 CFR 570.203(b) and 570.703(i) for assistance to carry out an economic development project unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 – "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." This condition is necessary to ensure consistency in the treatment of the assistance for the activity described in the Section 108 application and the requirements that apply to grant funds pledged as security for the repayment of the Guaranteed Loan.

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18569 with
Ride Connection, Inc. to Provide Funding for Rides Provided by
Volunteer Drivers under the Ride Together Program

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement Amount \$5,803. The contract is funded through the agreements with State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal Transit Administration 5310 Grant. No County General Funds are involved
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	None
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	8991

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18569 with Ride Connection, Inc. This contract provides funding for rides provided throughout the County by volunteer drivers of the Clackamas County Transportation Consortium. This Agreement provides continued funding for FY2018-19 to pay a mileage reimbursement stipend to volunteer drivers of the Ride Together program for the transportation services they provide to Clackamas County seniors and persons with disabilities. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. The Ride Together program provide an additional flexible resource to these residents. Someone in need of transportation services who has a friend or neighbor who is willing to meet some of their transportation needs can register with the Social Services TRP program. After completing a background check and training, the driver can be reimbursed for approved mileage. The Rider and Driver coordinate the dates and times of these rides which provides the flexibility to meet the Riders evening and weekend transportation needs that other

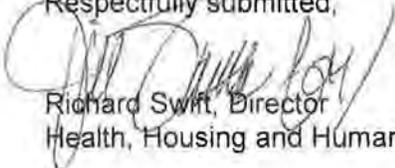
programs cannot currently provide. These volunteer drivers undergo the same screening and receive the same training as all the other Clackamas County Transportation Consortium volunteer and paid drivers.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its contracts for FY18-19. County Council reviewed and approved this agreement on 9/10/187. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", is written over the typed name and title.

Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18569
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

- A. In the reauthorization of the Transportation Bill (MAP-21) signed into law on July 6, 2012, federal funding was established for programs that meet the transportation needs of older adults and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs.
- B. Pursuant to federal requirements, a selection process has been conducted and Subrecipient was selected for a project through this process.
- C. Ride Connection and Subrecipient enter into this Subrecipient Agreement (the "Agreement") for the purpose of procuring Subrecipient's services, for which payment in part shall be from 5310 Funds.

AGREEMENTS:

I. General

- A. **Scope of Agreement** - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Subrecipient during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Subrecipient, other than the initial scope of Services attached in Exhibit A.
 - (1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Subrecipient shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (2) OMB Circular 2 CFR 200 (3) FTA Master Agreement, (4) Annual Certifications and Assurances, (5) FTA C 9070.1G.
- B. **Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A,

in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly. Similarly, if any change to the Services results in a material change to the project schedule, it shall also be accordingly determined and adjusted by Ride Connection after consultation with Subrecipient.

- C. Schedule - Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.
 - (1) In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.
- E. Subcontracts - Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.
 - (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the

right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.

- (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
- (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

- G. **Drug-Free Covered Agreement** - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Inspection of Records and Services

- A. **Recordkeeping Term** - Subrecipient shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, TriMet or Ride Connection may require. Subrecipient shall permit Ride Connection, TriMet, ODOT or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Subrecipient relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Subrecipient shall provide Ride Connection access to and shall provide a copy of records maintained by Subrecipient under this Agreement.

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- (1) Subrecipient shall at Subrecipient's expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, a copy of any annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement that is performed due to state law or regulation or conducted as an independent activity. Subrecipient shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the 20th day after the end of the preceding month.
- B. Reports shall include complete information required by FTA Circular 5010.1C, Chapter 1,

Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

4. Compensation

- A. **Agreed Price** - The maximum funding to be disbursed to Subrecipient under this Agreement is \$5,803.00. Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- B. **Payment Terms** - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.
- C. **Withholding** - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in section 18. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet or otherwise incur costs from TriMet withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Independent Contractor

Subrecipient is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Subrecipient, nor its officers, directors,

employees, subcontractors or drivers, are officers, employees or agents of Ride Connection as those terms are used in ORS 30.265. Subrecipient, its directors, officers, employees, subcontractors or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

- A. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- (i) Bodily injury or death to any person;
 - (ii) Property damage to any personal or real property owned by anyone;
 - (iii) Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - (iv) Infringement of any intellectual property or other third party rights;
 - (v) Discharge or causing the discharge of any hazardous or polluting substance; and
 - (vi) Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- B. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend, and hold harmless the State of Oregon, TriMet, Ride Connection

and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.

- C. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- D. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- D. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Subrecipient regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss.

8. Workers Compensation

Subrecipient, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or employers that are exempt under ORS 656.126(2). Subrecipient expressly waives any statutory or common law immunity, in accordance with the Oregon Revised Statutes, Vol. 14, Section 656, Revised Code of Washington, Title 51, as amended, or any other applicable laws or regulations that would otherwise shield an employer from insurance subrogation or other claims.

9. Insurance

- A. While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$115,800/\$579,000 property damage and \$1,412,000 total damages per occurrence.

- B. Subrecipient's subcontractors, if any, shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:
- (1) Commercial General Liability (CGL) Insurance covering bodily injury and property damage with a limit of not less than US\$1,000,000 each occurrence, and aggregate of US\$2,000,000.
 - (2) Business Auto Liability Insurance covering bodily injury and property damage with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).
 - (3) Workers Compensation and Employer's Liability Insurance. The employer's liability limit shall not be less than \$1,000,000 each accident for bodily injury by an accident and \$1,000,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.
 - (4) Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.
 - (5) Tail Coverage, if any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the subcontractor 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 sub agreement for subcontractors, for a minimum of 24 months following the later of: (i) the Subrecipient's completion and TriMet's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or, (ii) the expiration of all warranty periods provided under the sub agreement with respect to the subcontractor. Notwithstanding the foregoing 24-month requirement, if the subcontractor 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 subcontractor may request and TriMet may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If TriMet approval is granted, the subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
 - (6) The insurance required under this Paragraph shall:
Include Ride Connection, TriMet, ODOT, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected

officials, and employees as additional insureds with respect to work or operations connected with the Agreement, and

The Subrecipient or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

10. Claims, Notice

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to TriMet pursuant to the Prime Contract (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

11. Termination

Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection, under any of the following conditions:

- A. Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- B. Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- C. Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
- D. Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;

- E. Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- F. Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
- G. Subrecipient may terminate this Agreement, in whole or in part, upon 30 days written notice to Ride Connection

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

12. Compliance with Laws

Federal laws and regulations - In addition to those elsewhere specified, Subrecipient shall comply with any applicable federal, state and local laws, rules and regulations applicable to the project hereunder, including but not limited to the following: all federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services. Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (i) Title VI of the 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 other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (v) the Clean Air Act (42 U.S.C. 7401-7671q); (vi) the Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (vii) Executive Order 11738; (viii) Environmental Protection Agency regulations (40 CFR part 15); and (ix) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

Payment of taxes and business license - Subrecipient shall comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Subrecipient's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Subrecipient that it is in compliance with the foregoing, and Subrecipient will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Subrecipient's compliance with this Section.

ODOT Conflict of Interest Guidelines - If required applicable by ODOT, Subrecipient and its subcontractors shall comply with the ODOT Conflict of Interest ("COI") Guidelines and COI Disclosure Form. Subrecipient and, to the best of the undersigned's information, knowledge and Subrecipient's Associates (as defined in the COI Guidelines) are in compliance with and have no disclosures required per the COI Guidelines (available at the following Internet address: <http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx>); Subrecipient also confirms that no

Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, 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 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.

13. Term

This Agreement shall begin on 7/1/2018 and shall remain in effect through 6/30/2019 unless terminated sooner under the provisions of this Agreement.

14. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:
Dean Orr
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:
Stefanie Reid
Clackamas County Consortium
2051 Kaen Rd
Oregon City, OR 97045-1819

15. No Third Party Beneficiary

Ride Connection and Subrecipient are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

16. Assignment

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

17. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

18. Dispute Resolution

A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute

arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.
- C. Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.
- D. Costs and Award – The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, including attorney's fees through all tiers of dispute resolution, including meditation, if so awarded by the arbitrator or court of jurisdiction.

19. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

20. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

21. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Workers Compensation Insurance); 9 (Insurance); 17 (Governing Law); 18 (Dispute Resolution); and 22 (Surviving Provisions).

22. Prompt Payment

Subrecipient shall make payment promptly, as due, to all persons supplying to the Subrecipient labor or material for the performance of the work provided for in the contract. At a minimum, Subrecipient shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection. Subrecipient shall not hold retainage from subcontractors.

23. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Federal Terms and Conditions
- Exhibit C: Funding Information
- Exhibit D: Lobbying Certificate (signature required)
- Exhibit E: Nondiscrimination Certificate
- Exhibit F: Reporting Requirements

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair

Commissioner: Sonya Fischer

Commissioner: Ken Humbertson

Commissioner: Paul Savas

Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18549 with Ride Connection, Inc.
to Provide Funding for Vehicle Maintenance of Ride Connection owned
Vehicles Operated by Urban Community-based Clackamas County
Transportation Consortium members

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement Amount \$20,250. The contract is funded through the agreements with State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal Transit Administration 5310 Grant. No County General Funds are involved
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	None
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 9000

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18556 with Ride Connection, Inc. to provide pass through funding for vehicle maintenance of the vehicles owned by Ride Connection and operated by the urban community-based members of the Clackamas County Transportation Consortium. This contract will provide reimbursement funding to Consortium members for the routine maintenance of specified vehicles used for transportation services provided to seniors and persons with disabilities.

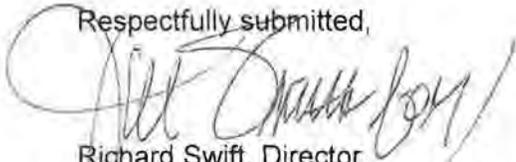
Transportation services are offered to area seniors and persons with disabilities who have limited or no access to public transportation. Any disabled adult, or person over the age of 60, living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. Transportation services provide a link for residents to access other services that meet their individual needs. This helps them to remain independent and involved in the community as long as possible.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its contracts for FY18-19. County Council reviewed and approved this agreement on 9/10/18. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", written over a large, light-colored circular mark.

Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18549
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

- A. In the reauthorization of the Transportation Bill (MAP-21) signed into law on July 6, 2012, federal funding was established for programs that meet the transportation needs of older adults and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs.
- B. Oregon Department of Transportation ("ODOT") has made funds available to Ride Connection pursuant to the Federal Transportation Administration Program for Enhanced Mobility of Seniors and Individuals With Disabilities, 49 U.S.C. §5310 ("5310 Funds"). Ride Connection is a pass-through recipient of these funds through Grant Agreement/Contract No. 32207 (the "Prime Contract") from ODOT.
- C. Ride Connection and Subrecipient enter into this Subrecipient Agreement (the "Agreement") for the purpose of procuring Subrecipient's services, for which payment in whole or part shall be from 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Subrecipient during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Subrecipient, other than the initial scope of Services attached in Exhibit A.
 - (1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Subrecipient shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (2) OMB Circular 2 CFR 200 (3) FTA Master Agreement, (4) Annual Certifications and Assurances, (5) FTA C 9070.1G.

- B. Scope of Services and Changes - Subrecipient is responsible for compliance with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to Federal Terms and Conditions, attached as Exhibit B. Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient must rely on its own independent judgment to ensure compliance with this section. Oral or written statements by Ride Connection are not to be relied on as a substitute for Subrecipient's independent obligation to follow all applicable laws as required by this section. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly. Similarly, if any change to the Services results in a material change to the project schedule, it shall also be accordingly determined and adjusted by Ride Connection after consultation with Subrecipient.
- C. Schedule - Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.
- (1) In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.
- E. Subcontracts - Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.
- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this

Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.

- (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
- (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

G. Drug-Free Covered Agreement - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, ODOT and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Inspection of Records and Services

A. Recordkeeping Term - Subrecipient shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, ODOT or Ride Connection may require. Subrecipient shall permit Ride Connection, ODOT or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Subrecipient relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the

Agreement, if expiration is later. Upon request by Ride Connection, Subrecipient shall provide Ride Connection access to and shall provide a copy of records maintained by Subrecipient under this Agreement.

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- (1) Subrecipient shall at Subrecipient's expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, a copy of any annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement that is performed due to state law or regulation or conducted as an independent activity. Subrecipient shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of their duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the 20th day after the end of the preceding month.
- B. Reports may include any of the following types of information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

4. Compensation

- A. **Agreed Price** - The maximum funding to be disbursed to Subrecipient under this Agreement is \$20,250.00. Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from ODOT for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- B. **Payment Terms** - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to timely apply for payment from ODOT. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.
- C. **Withholding** - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 18. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to ODOT or otherwise incur costs from ODOT withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Independent Contractor

Subrecipient is an independent contractor for all purposes under this Agreement, and shall be

exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Subrecipient, nor its officers, directors, employees, subcontractors or drivers, are officers, employees or agents of Ride Connection as those terms are used in ORS 30.265. Subrecipient, its directors, officers, employees, subcontractors or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

- A. Indemnified Conditions – Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, ODOT, Ride Connection and their directors, officers, employees and agents (the “Indemnitees”) from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- (i) Bodily injury or death to any person;
 - (ii) Property damage to any personal or real property owned by anyone;
 - (iii) Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - (iv) Infringement of any intellectual property or other third party rights;
 - (v) Discharge or causing the discharge of any hazardous or polluting substance; and
 - (vi) Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.

- B. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend, and hold harmless the State of Oregon, ODOT, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- C. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, ODOT, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, or Ride Connection.
- D. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- E. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Subrecipient regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss.

8. Workers Compensation

Subrecipient, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or employers that are exempt under ORS 656.126(2). Subrecipient expressly waives any statutory or common law immunity, in accordance with the Oregon Revised Statutes, Vol. 14, Section 656, Revised Code of Washington, Title 51, as amended, or any other applicable laws or regulations that would otherwise shield an employer from insurance subrogation or other claims.

9. Insurance

- A. While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Failure of Ride

Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$115,800/\$579,000 property damage and \$1,412,000 total damages per occurrence.

- B. Subrecipient's subcontractors, if any, shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:
- (1) Commercial General Liability (CGL) Insurance covering bodily injury and property damage with a limit of not less than \$1,000,000 each occurrence, and aggregate of \$2,000,000.
 - (2) Business Auto Liability Insurance covering Bodily injury, Death and Property damage with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).
 - (3) Workers Compensation and Employer's Liability Insurance. The employer's liability limit shall not be less than \$1,000,000 each accident for bodily injury by an accident and \$1,000,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.
 - (4) Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.
 - (5) Tail Coverage, if any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the subcontractor 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 sub agreement for subcontractors, for a minimum of 24 months following the later of: (i) the Subrecipient's completion and ODOT's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or, (ii) the expiration of all warranty periods provided under the sub agreement with respect to the subcontractor. Notwithstanding the foregoing 24-month requirement, if the subcontractor 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 subcontractor may request and TriMet may grant approval of the maximum "tail" coverage period

reasonably available in the marketplace. If ODOT approval is granted, the subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

(6) The insurance required under this Paragraph shall:

Include Ride Connection, ODOT, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement; and

The Subrecipient or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

10. Claims, Notice.

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to ODOT.
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

11. Termination

Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection, under any of the following conditions:

- A. Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- B. Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- C. Ride Connection fails to receive funding, or appropriations, limitations or other

expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;

- D. Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
- E. Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- F. Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
- G. Subrecipient may terminate this Agreement, in whole or in part, upon 30 days written notice to Ride Connection.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

12. Compliance with Laws

Federal laws and regulations - In addition to those elsewhere specified, Subrecipient shall comply with any applicable federal, state and local laws, rules and regulations applicable to the project hereunder, including but not limited to the following: all federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services. Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659a.142; (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (v) the Clean Air Act (42 U.S.C. 7401-7671q); (vi) the Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (vii) Executive Order 11738; (viii) Environmental Protection Agency regulations (40 CFR part 15); and (ix) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

Payment of taxes and business license - Subrecipient shall comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Subrecipient's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Subrecipient that it is in compliance with the foregoing, and Subrecipient will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Subrecipient's compliance with this Section.

ODOT Conflict of Interest Guidelines - If required applicable by ODOT, Subrecipient and its subcontractors shall comply with the ODOT Conflict of Interest ("COI") Guidelines and COI Disclosure Form. Subrecipient and, to the best of the undersigned's information, knowledge and Subrecipient's Associates (as defined in the COI Guidelines) are in compliance with and have no disclosures required per the COI Guidelines (available at the following Internet address: <http://www.oregon.gov/ODOT/CS/OPO/Pages/ac.aspx>); Subrecipient also confirms that no Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, 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 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.

13. Term

This Agreement shall begin on 7/1/2018 and shall remain in effect through 6/30/2019 unless terminated sooner under the provisions of this Agreement.

14. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' as indicated below:

Ride Connection:

Dean Orr
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:

Stefanie Reid
Clackamas County Consortium
2051 Kaen Rd
Oregon City, OR 97045-1819

15. No Third Party Beneficiary

Ride Connection and Subrecipient are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

16. Assignment

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

17. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

18. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.
- C. Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

- D. **Costs and Award** - The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, including attorney's fees through all tiers of dispute resolution, including mediation, if so awarded by the arbitrator or court of jurisdiction.

19. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

20. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

21. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Workers Compensation Insurance); 9 (Insurance); 17 (Governing Law); 18 (Dispute Resolution); and 22 (Surviving Provisions).

22. Prompt Payment

Subrecipient shall make payment promptly, as due, to all persons supplying to the Subrecipient labor or material for the performance of the work provided for in the contract. At a minimum, Subrecipient shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection. Subrecipient shall not hold retainage from subcontractors.

23. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Federal Terms and Conditions
- Exhibit C: Funding Information
- Exhibit D: Lobbying Certificate (signature required)
- Exhibit E: Nondiscrimination Certificate
- Exhibit F: Reporting Requirements
- Exhibit G: Vehicle Maintenance Requirements and Program (signature required)
- Exhibit H: Vehicle and Equipment Information and Inventory

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY

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

Signing on Behalf of the Board:

By: _____
 Rich Swift, Director
 Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
 Clackamas County Council

Dated: _____

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18556 with Ride Connection, Inc. to Provide Funding for Vehicle Maintenance of Ride Connection owned Vehicles Operated by Rural Community-based Clackamas County Transportation Consortium members

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement Amount \$21,600. The contract is funded through the agreements with State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal Transit Administration 5310 Grant. No County General Funds are involved
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	None
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 9001

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18556 with Ride Connection, Inc. to provide pass through funding for vehicle maintenance of the vehicles owned by Ride Connection and operated by the rural community-based members of the Clackamas County Transportation Consortium. This contract will provide reimbursement funding to Consortium members for the routine maintenance of specified vehicles used for transportation services provided to seniors and persons with disabilities.

Transportation services are offered to area seniors and persons with disabilities who have limited or no access to public transportation. Any disabled adult, or person over the age of 60, living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. Transportation services provide a link for residents to access other services that meet their individual needs. This helps them to remain independent and involved in the community as long as possible.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient

agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its contracts for FY18-19. County Council reviewed and approved this agreement on 9/10/18. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", written over a printed name and title.

Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18556
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

- A. In the reauthorization of the Transportation Bill (MAP-21) signed into law on July 6, 2012, federal funding was established for programs that meet the transportation needs of older adults and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs.
- B. Oregon Department of Transportation ("ODOT") has made funds available to Ride Connection pursuant to the Federal Transportation Administration Program for Enhanced Mobility of Seniors and Individuals With Disabilities, 49 U.S.C. §5310 ("5310 Funds"). Ride Connection is a pass-through recipient of these funds through Grant Agreement/Contract No. 32867 (the "Prime Contract") from ODOT.
- C. Ride Connection and Subrecipient enter into this Subrecipient Agreement (the "Agreement") for the purpose of procuring Subrecipient's services, for which payment in whole or part shall be from 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Subrecipient during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Subrecipient, other than the initial scope of Services attached in Exhibit A.
 - (1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Subrecipient shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (2) OMB Circular 2 CFR 200 (3) FTA Master Agreement, (4) Annual Certifications and Assurances, (5) FTA C 9070.1G.

- B. Scope of Services and Changes - Subrecipient is responsible for compliance with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to Federal Terms and Conditions, attached as Exhibit B. Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient must rely on its own independent judgment to ensure compliance with this section. Oral or written statements by Ride Connection are not to be relied on as a substitute for Subrecipient's independent obligation to follow all applicable laws as required by this section. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly. Similarly, if any change to the Services results in a material change to the project schedule, it shall also be accordingly determined and adjusted by Ride Connection after consultation with Subrecipient.
- C. Schedule - Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.
- (1) In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.
- E. Subcontracts - Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.
- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this

Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.

- (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
- (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

G. **Drug-Free Covered Agreement** - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, ODOT and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Inspection of Records and Services

A. **Recordkeeping Term** - Subrecipient shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, ODOT or Ride Connection may require. Subrecipient shall permit Ride Connection, ODOT or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Subrecipient relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the

Agreement, if expiration is later. Upon request by Ride Connection, Subrecipient shall provide Ride Connection access to and shall provide a copy of records maintained by Subrecipient under this Agreement.

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- (1) Subrecipient shall at Subrecipient's expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, a copy of any annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement that is performed due to state law or regulation or conducted as an independent activity. Subrecipient shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of their duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the 20th day after the end of the preceding month.
- B. Reports may include any of the following types of information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

4. Compensation

- A. **Agreed Price** - The maximum funding to be disbursed to Subrecipient under this Agreement is \$21,600.00. Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from ODOT for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- B. **Payment Terms** - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to timely apply for payment from ODOT. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.
- C. **Withholding** - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 18. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to ODOT or otherwise incur costs from ODOT withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Independent Contractor

Subrecipient is an independent contractor for all purposes under this Agreement, and shall be

exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Subrecipient, nor its officers, directors, employees, subcontractors or drivers, are officers, employees or agents of Ride Connection as those terms are used in ORS 30.265. Subrecipient, its directors, officers, employees, subcontractors or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

A. Indemnified Conditions – Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, ODOT, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:

- (i) Bodily injury or death to any person;
- (ii) Property damage to any personal or real property owned by anyone;
- (iii) Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
- (iv) Infringement of any intellectual property or other third party rights;
- (v) Discharge or causing the discharge of any hazardous or polluting substance; and
- (vi) Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.

- B. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend, and hold harmless the State of Oregon, ODOT, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- C. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, ODOT, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, or Ride Connection.
- D. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- E. No Consequential Damages - Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Subrecipient regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss.

8. Workers Compensation

Subrecipient, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or employers that are exempt under ORS 656.126(2). Subrecipient expressly waives any statutory or common law immunity, in accordance with the Oregon Revised Statutes, Vol. 14, Section 656, Revised Code of Washington, Title 51, as amended, or any other applicable laws or regulations that would otherwise shield an employer from insurance subrogation or other claims.

9. Insurance

- A. While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Failure of Ride

Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$115,800/\$579,000 property damage and \$1,412,000 total damages per occurrence.

- B. Subrecipient's subcontractors, if any, shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:
- (1) Commercial General Liability (CGL) Insurance covering bodily injury and property damage with a limit of not less than \$1,000,000 each occurrence, and aggregate of \$2,000,000.
 - (2) Business Auto Liability Insurance covering Bodily injury, Death and Property damage with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).
 - (3) Workers Compensation and Employer's Liability Insurance. The employer's liability limit shall not be less than \$1,000,000 each accident for bodily injury by an accident and \$1,000,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.
 - (4) Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.
 - (5) Tail Coverage, if any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the subcontractor 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 sub agreement for subcontractors, for a minimum of 24 months following the later of: (i) the Subrecipient's completion and ODOT's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or, (ii) the expiration of all warranty periods provided under the sub agreement with respect to the subcontractor. Notwithstanding the foregoing 24-month requirement, if the subcontractor 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 subcontractor may request and TriMet may grant approval of the maximum "tail" coverage period

reasonably available in the marketplace. If ODOT approval is granted, the subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

(6) The insurance required under this Paragraph shall:

Include Ride Connection, ODOT, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement; and

The Subrecipient or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

10. Claims, Notice.

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to ODOT.
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

11. Termination

Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection, under any of the following conditions:

- A. Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- B. Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- C. Ride Connection fails to receive funding, or appropriations, limitations or other

expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;

- D. Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
- E. Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- F. Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
- G. Subrecipient may terminate this Agreement, in whole or in part, upon 30 days written notice to Ride Connection.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

12. Compliance with Laws

Federal laws and regulations - In addition to those elsewhere specified, Subrecipient shall comply with any applicable federal, state and local laws, rules and regulations applicable to the project hereunder, including but not limited to the following: all federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services. Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659a.142; (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (v) the Clean Air Act (42 U.S.C. 7401-7671q); (vi) the Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (vii) Executive Order 11738; (viii) Environmental Protection Agency regulations (40 CFR part 15); and (ix) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

Payment of taxes and business license - Subrecipient shall comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Subrecipient's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Subrecipient that it is in compliance with the foregoing, and Subrecipient will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Subrecipient's compliance with this Section.

ODOT Conflict of Interest Guidelines - If required applicable by ODOT, Subrecipient and its subcontractors shall comply with the ODOT Conflict of Interest ("COI") Guidelines and COI Disclosure Form. Subrecipient and, to the best of the undersigned's information, knowledge and Subrecipient's Associates (as defined in the COI Guidelines) are in compliance with and have no disclosures required per the COI Guidelines (available at the following Internet address: <http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx>); Subrecipient also confirms that no Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, 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 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.

13. Term

This Agreement shall begin on 7/1/2018 and shall remain in effect through 6/30/2019 unless terminated sooner under the provisions of this Agreement.

14. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' as indicated below:

Ride Connection:

Dean Orr
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:

Stefanie Reid
Clackamas County Consortium
2051 Kaen Rd
Oregon City, OR 97045-1819

15. No Third Party Beneficiary

Ride Connection and Subrecipient are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

16. Assignment

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

17. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

18. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.
- C. Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

- D. Costs and Award - The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, including attorney's fees through all tiers of dispute resolution, including mediation, if so awarded by the arbitrator or court of jurisdiction.

19. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

20. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

21. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Workers Compensation Insurance); 9 (Insurance); 17 (Governing Law); 18 (Dispute Resolution); and 22 (Surviving Provisions).

22. Prompt Payment

Subrecipient shall make payment promptly, as due, to all persons supplying to the Subrecipient labor or material for the performance of the work provided for in the contract. At a minimum, Subrecipient shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection. Subrecipient shall not hold retainage from subcontractors.

23. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Federal Terms and Conditions
- Exhibit C: Funding Information
- Exhibit D: Lobbying Certificate (signature required)
- Exhibit E: Nondiscrimination Certificate
- Exhibit F: Reporting Requirements
- Exhibit G: Vehicle Maintenance Requirements and Program (signature required)
- Exhibit H: Vehicle and Equipment Information and Inventory

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair

Commissioner: Sonya Fischer

Commissioner: Ken Humbertson

Commissioner: Paul Savas

Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18568 with
Ride Connection, Inc. to Provide Funding for Rides Provided by
Volunteer Drivers under the Vets Drive Vets Program

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement Amount \$5,047. The contract is funded through the agreements with State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal Transit Administration 5310 Grant. No County General Funds are involved
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	None
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	8992

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18568 with Ride Connection, Inc. This contract provides funding for rides provided throughout the County by volunteer drivers of the Clackamas County Transportation Consortium. This Agreement provides continued funding for FY2018-19 to pay a mileage reimbursement stipend to volunteer drivers of the Vets Driving Vets program for transportation services they provide to Clackamas County seniors and persons with disabilities. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. The Vets Driving Vets program provide an additional flexible resource to these residents. Someone in need of transportation services who has a friend or neighbor who is willing to meet some of their transportation needs, and both rider and driver are veterans, can register with the Social Services TRP program. After completing a background check and training, the driver can be reimbursed for approved mileage. The Rider and Driver coordinate the dates and times of these rides which provides the flexibility to meet the Riders evening and weekend

Healthy Families. Strong Communities.

transportation needs that other programs cannot currently provide. These volunteer drivers undergo the same screening and receive the same training as all the other Clackamas County Transportation Consortium volunteer and paid drivers.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its contracts for FY18-19. County Council reviewed and approved this agreement on 9/10/18. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18568
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

- A. In the reauthorization of the Transportation Bill (MAP-21) signed into law on July 6, 2012, federal funding was established for programs that meet the transportation needs of older adults and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs.
- B. Pursuant to federal requirements, a selection process has been conducted and Subrecipient was selected for a project through this process.
- C. Ride Connection and Subrecipient enter into this Subrecipient Agreement (the "Agreement") for the purpose of procuring Subrecipient's services, for which payment in part shall be from 5310 Funds.

AGREEMENTS:

I. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Subrecipient during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Subrecipient, other than the initial scope of Services attached in Exhibit A.
 - (1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Subrecipient shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (2) OMB Circular 2 CFR 200 (3) FTA Master Agreement, (4) Annual Certifications and Assurances, (5) FTA C 9070.1G.
- B. Scope of Services and Changes - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A,

in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly. Similarly, if any change to the Services results in a material change to the project schedule, it shall also be accordingly determined and adjusted by Ride Connection after consultation with Subrecipient.

- C. Schedule - Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.
 - (1) In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.
- E. Subcontracts - Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.
 - (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the

right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.

- (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
- (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

G. **Drug-Free Covered Agreement** - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Inspection of Records and Services

A. **Recordkeeping Term** - Subrecipient shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, TriMet or Ride Connection may require. Subrecipient shall permit Ride Connection, TriMet, ODOT or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Subrecipient relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Subrecipient shall provide Ride Connection access to and shall provide a copy of records maintained by Subrecipient under this Agreement.

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- (1) Subrecipient shall at Subrecipient's expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, a copy of any annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement that is performed due to state law or regulation or conducted as an independent activity. Subrecipient shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the 20th day after the end of the preceding month.
- B. Reports shall include complete information required by FTA Circular 5010.1C, Chapter 1,

Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

4. Compensation

- A. Agreed Price - The maximum funding to be disbursed to Subrecipient under this Agreement is \$5,047.00. Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- B. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.
- C. Withholding - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in section 18. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet or otherwise incur costs from TriMet withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Independent Contractor

Subrecipient is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Subrecipient, nor its officers, directors,

employees, subcontractors or drivers, are officers, employees or agents of Ride Connection as those terms are used in ORS 30.265. Subrecipient, its directors, officers, employees, subcontractors or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

- A. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- (i) Bodily injury or death to any person;
 - (ii) Property damage to any personal or real property owned by anyone;
 - (iii) Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - (iv) Infringement of any intellectual property or other third party rights;
 - (v) Discharge or causing the discharge of any hazardous or polluting substance; and
 - (vi) Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- B. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend, and hold harmless the State of Oregon, TriMet, Ride Connection

and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.

- C. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- D. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- D. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Subrecipient regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss.

8. Workers Compensation

Subrecipient, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or employers that are exempt under ORS 656.126(2). Subrecipient expressly waives any statutory or common law immunity, in accordance with the Oregon Revised Statutes, Vol. 14, Section 656, Revised Code of Washington, Title 51, as amended, or any other applicable laws or regulations that would otherwise shield an employer from insurance subrogation or other claims.

9. Insurance

- A. While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$115,800/\$579,000 property damage and \$1,412,000 total damages per occurrence.

- B. Subrecipient's subcontractors, if any, shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:
- (1) Commercial General Liability (CGL) Insurance covering bodily injury and property damage with a limit of not less than US\$1,000,000 each occurrence, and aggregate of US\$2,000,000.
 - (2) Business Auto Liability Insurance covering bodily injury and property damage with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).
 - (3) Workers Compensation and Employer's Liability Insurance. The employer's liability limit shall not be less than \$1,000,000 each accident for bodily injury by an accident and \$1,000,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.
 - (4) Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.
 - (5) Tail Coverage, if any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the subcontractor 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 sub agreement for subcontractors, for a minimum of 24 months following the later of: (i) the Subrecipient's completion and TriMet's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or, (ii) the expiration of all warranty periods provided under the sub agreement with respect to the subcontractor. Notwithstanding the foregoing 24-month requirement, if the subcontractor 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 subcontractor may request and TriMet may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If TriMet approval is granted, the subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
 - (6) The insurance required under this Paragraph shall:
Include Ride Connection, TriMet, ODOT, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected

officials, and employees as additional insureds with respect to work or operations connected with the Agreement, and

The Subrecipient or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

10. Claims, Notice

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to TriMet pursuant to the Prime Contract (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

11. Termination

Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection, under any of the following conditions:

- A. Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- B. Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- C. Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
- D. Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;

- E. Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- F. Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
- G. Subrecipient may terminate this Agreement, in whole or in part, upon 30 days written notice to Ride Connection

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

12. Compliance with Laws

Federal laws and regulations - In addition to those elsewhere specified, Subrecipient shall comply with any applicable federal, state and local laws, rules and regulations applicable to the project hereunder, including but not limited to the following: all federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services. Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (i) Title VI of the 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 other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (v) the Clean Air Act (42 U.S.C. 7401-7671q); (vi) the Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (vii) Executive Order 11738; (viii) Environmental Protection Agency regulations (40 CFR part 15); and (ix) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

Payment of taxes and business license - Subrecipient shall comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Subrecipient's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Subrecipient that it is in compliance with the foregoing, and Subrecipient will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Subrecipient's compliance with this Section.

ODOT Conflict of Interest Guidelines - If required applicable by ODOT, Subrecipient and its subcontractors shall comply with the ODOT Conflict of Interest ("COI") Guidelines and COI Disclosure Form. Subrecipient and, to the best of the undersigned's information, knowledge and Subrecipient's Associates (as defined in the COI Guidelines) are in compliance with and have no disclosures required per the COI Guidelines (available at the following Internet address: <http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx>); Subrecipient also confirms that no

Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, 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 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.

13. Term

This Agreement shall begin on 7/1/2018 and shall remain in effect through 6/30/2019 unless terminated sooner under the provisions of this Agreement.

14. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:
Dean Orr
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:
Stefanie Reid
Clackamas County Consortium
2051 Kaen Rd
Oregon City, OR 97045-1819

15. No Third Party Beneficiary

Ride Connection and Subrecipient are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

16. Assignment

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

17. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

18. Dispute Resolution

A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute

arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.
- C. Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.
- D. Costs and Award – The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, including attorney's fees through all tiers of dispute resolution, including meditation, if so awarded by the arbitrator or court of jurisdiction.

19. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

20. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

21. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Workers Compensation Insurance); 9 (Insurance); 17 (Governing Law); 18 (Dispute Resolution); and 22 (Surviving Provisions).

22. Prompt Payment

Subrecipient shall make payment promptly, as due, to all persons supplying to the Subrecipient labor or material for the performance of the work provided for in the contract. At a minimum, Subrecipient shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection. Subrecipient shall not hold retainage from subcontractors.

23. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Federal Terms and Conditions
- Exhibit C: Funding Information
- Exhibit D: Lobbying Certificate (signature required)
- Exhibit E: Nondiscrimination Certificate
- Exhibit F: Reporting Requirements

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WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY
Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humbertson
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____ |
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18573 with
Ride Connection, Inc. to Provide Funding for Specialized Service Rides Provided
by Members of the Clackamas County Transportation Consortium

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement Amount \$152,254. This agreement is funded through the agreements with State of Oregon, Special Transportation Formula Fund (STF).
Funding Source	State of Oregon, ODOT-STF funds. No County General Funds are involved
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	010517-A3
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 8993

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18573 with Ride Connection, Inc. This agreement provides State of Oregon, Special Transportation Formula (STF) funding for rides provided throughout the County by the Hoodland/Welches, NCPRD-Milwaukie, Molalla and Sandy Community Centers. This agreement provides continued funding for FY2018-19 to reimburse these members of the Clackamas County Transportation Consortium for transportation services they provide to Clackamas County seniors and persons with disabilities that reside outside the regular service area of the Center. These funds help residents to remain independent and engaged in their community as long as possible.

This agreement is specific to the (4) community centers listed above to provide rides in lift equipped mini-buses and/or vans to residents that are outside their Center's service area who wish to come to the Center for activities and/or meals. The transportation services provided by senior centers are primarily to the centers for participation in the nutrition programs and the various services and recreational programs offered at the centers. However, the Centers also provide group transportation for shopping, personal business, and medical appointments in their local area. This agreement also

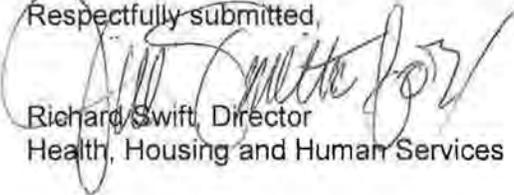
provides funding for these Centers to use taxis to provide transportation to medical facilities outside their service area. In general, transportation is provided weekdays between 8:00 am and 5:00pm.

This agreement is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY18-19. County Council reviewed and approved this agreement on 9/12/18. No County General Funds are involved. This agreement is the first year of the two-year STF grant awarded during the January 2017 application cycle.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", is written over the typed name and title.

Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18573
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STF and other funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$152,254. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Oregon Department of Transportation ("ODOT") has made funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet") pursuant to the Federal Transportation Administration Program for Enhanced Mobility of Seniors and Individuals With Disabilities, 49 U.S.C. §5310 ("5310 Funds"). Ride Connection is a pass-through recipient of these funds through Grant Agreement/Contract No. JP180303ZC (the "Prime Contract") from TriMet.
3. Oregon Department of Transportation ("ODOT") has made Special Transportation Funds (STF) funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet"). Ride Connection is a pass-through recipient of these funds through Grant from TriMet.
4. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County Consortium which provides transportation services inside the TriMet services District.
5. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

- A. Subrecipient agrees to comply with and use the STF funds in accordance with the terms of this Agreement including the terms of ORS 391.80 through 391.830 and the provisions of OAR Chapter 732 as may be amended, all of which are incorporated into and made part of

this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and ODOT, and Ride Connection regarding disbursement of STF and other funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance.

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services, which shall require the subcontractor to comply with ORS 391.800 through 391.830, OAR Chapter 732, as may be amended, and the terms of this Agreement. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

- B. **Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet, ODOT, and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.
- C. **Audit Right** – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

- D. **Subcontracts** – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any

responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.
 - (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
 - (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- E. Drug-Free Covered Agreement** - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and

must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Audit Requirements/Financial Management Procedure

- A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient's annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STF funding requirements hereunder by Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet and or, ODOT or otherwise incur costs from funder withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.

Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

- A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.
- B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- i. Bodily injury or death to any person;
 - ii. Property damage to any personal or real property owned by anyone;
 - iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - iv. Infringement of any intellectual property or other third party rights;
 - v. Discharge or causing the discharge of any hazardous or polluting substance; and
 - vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property

where the Services are performed.

- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend the State of Oregon, TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, nor purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

7. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry 16 or more passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

Subrecipient shall perform criminal, Department of Motor Vehicles and employment background checks as part of the eligibility requirements for all drivers.

Subrecipient shall only let approved drivers transport customers or drive Ride Connection network vehicles.

8. Funding

- A. No more than monthly, Ride Connection shall reimburse Subrecipient for costs associated with activities outlined in Exhibit A. Reimbursement requests will only be paid when actual costs have been incurred and not beforehand.

Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for

the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

- B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$152,254**
- C. Subrecipient shall document eligible use of STF funds in accordance with this Agreement.
- D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at accountspayable@rideconnection.org.
- E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

9. Term

This Agreement shall be in effect from 7/1/2018 through 6/30/2019, unless the Agreement is terminated earlier as provided in this Agreement.

10. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:	Subrecipient:
Dean Orr	Stefanie Reid
Ride Connection	Clackamas County Consortium
9955 NE Glisan St.	2051 Kaen Rd
Portland, OR 97220	Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

11. Assignment/Subcontracts

Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

12. Dispute Resolution

Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

Costs and Award - The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, through all tiers of dispute resolution, including meditation, if so awarded by the arbitrator or court of jurisdiction.

13. Claims, Notice

- A. **Notice Period** - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to funder (whichever is sooner).
- B. **Notice Content** - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.

- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

14. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

15. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

16. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 14 (Confidential Information); 18 (Dispute Resolution); 16 Governing Law, 17(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

17. Entire Agreement/Authority

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms 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.

18. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY
Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humbertson
Commissioner: Paul Savas
Commissioner: Martha Schrader
Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18574 and #18565 with
Ride Connection, Inc. to Provide Funding for Rides Provided
by Members of the Clackamas County Transportation Consortium

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement #18574 Amount \$157,799. This agreement is funded through the agreements with State of Oregon, Special Transportation Formula Fund (STF). Agreement #18565 Amount \$206,670. This agreement is funded through the agreements with TriMet General Fund
Funding Source	State of Oregon, ODOT-STF funds and TriMet General Funds. No County General Funds are involved
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	010517-A3 for STF Funding
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 8994, H3S# 8998

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreements #18574 and #18565 with Ride Connection, Inc. Agreement #18574 provides State of Oregon, Special Transportation Formula (STF) funding for rides that originate outside the TriMet service district while Agreement #18565 provided funding for rides that originate inside the TriMet service district. All rides are provided throughout the County by members of the Clackamas County Transportation Consortium (CCTC). The combination of these two agreements fund the core base-services of the CCTC programming as well as continued funding for FY2018-19 to reimburse members of the CCTC for transportation services they provide to Clackamas County seniors and persons with disabilities. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. The Centers located in Canby, Estacada, Gladstone, Hoodland/Welches, Lake Oswego, Milwaukie, Molalla, Oregon City, and Sandy provide

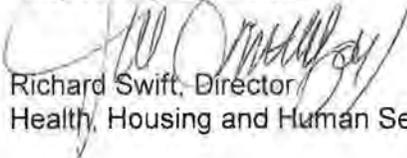
rides in lift equipped mini-buses and/or vans to residents in their service area. The transportation services provided by senior centers are primarily to the centers for participation in the nutrition programs and the various services and recreational programs offered at the centers. However, the Centers also provide group transportation for shopping, personal business, and medical appointments in their local area. The TRP program utilizes this funding to provide rides with volunteer drivers in their privately owned autos driven. TRP provides transportation throughout the county and to medical facilities located in the Portland-metro area. The majority of TRP rides are for medical transportation. TRP also provides rides for residents to conduct other personal business; including accessing food banks and grocery stores. In general, transportation is provided weekdays between 8:00 am and 5:00pm.

This agreement is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY18-19. County Council reviewed and approved this agreement on 9/12/18. No County General Funds are involved. This agreement is the first year of the two-year STF grant awarded during the January 2017 application cycle.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18574
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STF and other funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$157,799. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Oregon Department of Transportation ("ODOT") has made funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet") pursuant to the Federal Transportation Administration Program for Enhanced Mobility of Seniors and Individuals With Disabilities, 49 U.S.C. §5310 ("5310 Funds"). Ride Connection is a pass-through recipient of these funds through Grant Agreement/Contract No. JP180303ZC (the "Prime Contract") from TriMet.
3. Oregon Department of Transportation ("ODOT") has made Special Transportation Funds (STF) funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet"). Ride Connection is a pass-through recipient of these funds through Grant from TriMet.
4. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County Consortium which provides transportation services inside the TriMet services District.
5. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

- A. Subrecipient agrees to comply with and use the STF funds in accordance with the terms of this Agreement including the terms of ORS 391.80 through 391.830 and the provisions of OAR Chapter 732 as may be amended, all of which are incorporated into and made part of

this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and ODOT, and Ride Connection regarding disbursement of STF and other funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance.

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services, which shall require the subcontractor to comply with ORS 391.800 through 391.830, OAR Chapter 732, as may be amended, and the terms of this Agreement. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

- B. Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet, ODOT, and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.
- C. Audit Right** – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

- D. Subcontracts** – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any

responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.
 - (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
 - (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- E. **Drug-Free Covered Agreement** - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and

must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Audit Requirements/Financial Management Procedure

- A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient's annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STF funding requirements hereunder by Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet and or, ODOT or otherwise incur costs from funder withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.

Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

- A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.
- B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- i. Bodily injury or death to any person;
 - ii. Property damage to any personal or real property owned by anyone;
 - iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - iv. Infringement of any intellectual property or other third party rights;
 - v. Discharge or causing the discharge of any hazardous or polluting substance; and
 - vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property

where the Services are performed.

- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend the State of Oregon, TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

7. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry 16 or more passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

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Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for

the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

- B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$157,799**
- C. Subrecipient shall document eligible use of STF funds in accordance with this Agreement.
- D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at accountspayable@rideconnection.org.
- E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

9. Term

This Agreement shall be in effect from 7/1/2018 through 6/30/2019, unless the Agreement is terminated earlier as provided in this Agreement.

10. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:
Dean Orr
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:
Stefanie Reid
Clackamas County Consortium
2051 Kaen Rd
Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

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Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

12. Dispute Resolution

Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

Costs and Award - The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, through all tiers of dispute resolution, including meditation, if so awarded by the arbitrator or court of jurisdiction.

13. Claims, Notice

- A. **Notice Period** - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to funder (whichever is sooner).
- B. **Notice Content** - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.

- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

14. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

15. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

16. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 14 (Confidential Information); 18 (Dispute Resolution); 16 Governing Law, 17(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

17. Entire Agreement/Authority

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms 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.

18. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY
 Commissioner: Jim Bernard, Chair
 Commissioner: Sonya Fischer
 Commissioner: Ken Humbertson
 Commissioner: Paul Savas
 Commissioner: Martha Schrader
Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

**SERVICES AGREEMENT #18565
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved TriMet general funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$206,670. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County Consortium which provides transportation services inside the TriMet services District.
3. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

- A. Subrecipient agrees to comply with and use the funds in accordance with the terms of this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and Ride Connection regarding disbursement of TriMet general funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance.

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written

agreement with Subrecipient before the commencement of services. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

- B. Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.
- C. Audit Right** – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

- D. Subcontracts** – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.
- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties

that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.

- (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
- (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

E. Drug-Free Covered Agreement - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Audit Requirements/Financial Management Procedure

- A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient's annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional

reporting information from the Subrecipient.

Ride Connection and TriMet reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet or, ODOT or otherwise incur costs from funder withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.

Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

- A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out

of the activities of Subrecipient, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.

- B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- i. Bodily injury or death to any person;
 - ii. Property damage to any personal or real property owned by anyone;
 - iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - iv. Infringement of any intellectual property or other third party rights;
 - v. Discharge or causing the discharge of any hazardous or polluting substance; and
 - vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitee Consent - Subrecipient shall not defend any claim in the name of TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

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Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$206,670**

C. Subrecipient shall document eligible use TriMet general funds in accordance with this Agreement.

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9955 NE Glisan St.	2051 Kaen Rd
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If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms 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.

18. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair

Commissioner: Sonya Fischer

Commissioner: Ken Humbertson

Commissioner: Paul Savas

Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

September 20, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18575, #18576 and #18577 with
Ride Connection, Inc. to Provide Funding for Rides Provided
by Social Services, Transportation Reaching People

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement #18575 Amount \$106,310; Agreement #18576 Amount \$30,086; Agreement #18577 Amount \$30,415. This agreement is funded through the agreements with State of Oregon, Special Transportation Formula Fund (STF).
Funding Source	State of Oregon, ODOT-STF and Tri-Met General funds. No County General Funds are involved
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	010517-A3
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 8995 (18575), H3S#8996 (18577), H3S#8997(18576)

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreements #18575, #18576 and #18577 with Ride Connection, Inc. These agreement provides State of Oregon, Special Transportation Formula (STF) funding for rides provided throughout the County by the Social Services Transportation Reaching People (TRP) program. This agreement provides continued funding for FY2018-19 to reimburse TRP for transportation services they provide to Clackamas County seniors and persons with disabilities. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. Agreements #18575 and #18577 are specific to rides the TRP program provides in either a lift equipped mini-buses or mini-vans driven by paid staff, while Agreement #18756 provides supportive funding for volunteer driver mileage reimbursement for ride they provide in their own vehicles. TRP provides transportation throughout the county and to medical facilities located in the Portland-metro area in these vehicles. When possible riders with a

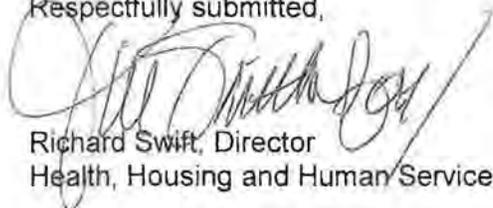
similar destination and arrival time ride together to increase program efficiencies. The majority of TRP rides are for medical transportation. TRP also provides rides for residents to conduct other personal business; including accessing food banks and grocery stores. In general, transportation is provided weekdays between 8:00 am and 5:00pm.

This agreement is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY18-19. County Council reviewed and approved this agreement on 9/12/18. No County General Funds are involved. This agreement is the first year of the two-year STF grant awarded during the January 2017 application cycle.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", is written over the typed name and title.

Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18575
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STF and other funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$106,310. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Oregon Department of Transportation ("ODOT") has made funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet") pursuant to the Federal Transportation Administration Program for Enhanced Mobility of Seniors and Individuals With Disabilities, 49 U.S.C. §5310 ("5310 Funds"). Ride Connection is a pass-through recipient of these funds through Grant Agreement/Contract No. JP180303ZC (the "Prime Contract") from TriMet.
3. Oregon Department of Transportation ("ODOT") has made Special Transportation Funds (STF) funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet"). Ride Connection is a pass-through recipient of these funds through Grant from TriMet.
4. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County Consortium which provides transportation services inside the TriMet services District.
5. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

- A. Subrecipient agrees to comply with and use the STF funds in accordance with the terms of this Agreement including the terms of ORS 391.80 through 391.830 and the provisions of OAR Chapter 732 as may be amended, all of which are incorporated into and made part of

this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and ODOT, and Ride Connection regarding disbursement of STF and other funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance.

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services, which shall require the subcontractor to comply with ORS 391.800 through 391.830, OAR Chapter 732, as may be amended, and the terms of this Agreement. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

- B. Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet, ODOT, and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.
- C. Audit Right** – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

- D. Subcontracts** – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any

responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.
 - (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
 - (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- E. **Drug-Free Covered Agreement** - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and

must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

2. Audit Requirements/Financial Management Procedure

- A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient's annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STF funding requirements hereunder by Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet and or, ODOT or otherwise incur costs from funder withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.

Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.

B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:

- i. Bodily injury or death to any person;
- ii. Property damage to any personal or real property owned by anyone;
- iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
- iv. Infringement of any intellectual property or other third party rights;
- v. Discharge or causing the discharge of any hazardous or polluting substance; and
- vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property

where the Services are performed.

- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend the State of Oregon, TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitor Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitors. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

7. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry 16 or more passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

Subrecipient shall perform criminal, Department of Motor Vehicles and employment background checks as part of the eligibility requirements for all drivers.

Subrecipient shall only let approved drivers transport customers or drive Ride Connection network vehicles.

8. Funding

- A. No more than monthly, Ride Connection shall reimburse Subrecipient for costs associated with activities outlined in Exhibit A. Reimbursement requests will only be paid when actual costs have been incurred and not beforehand.

Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for

the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

- B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$106,310**
- C. Subrecipient shall document eligible use of STF funds in accordance with this Agreement.
- D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at accountspayable@rideconnection.org.
- E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

9. Term

This Agreement shall be in effect from 7/1/2018 through 6/30/2019, unless the Agreement is terminated earlier as provided in this Agreement.

10. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:	Subrecipient:
Dean Orr	Stefanie Reid
Ride Connection	Clackamas County Consortium
9955 NE Glisan St.	2051 Kaen Rd
Portland, OR 97220	Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

11. Assignment/Subcontracts

Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

12. Dispute Resolution

Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

Costs and Award - The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, through all tiers of dispute resolution, including meditation, if so awarded by the arbitrator or court of jurisdiction.

13. Claims, Notice

- A. **Notice Period** - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to funder (whichever is sooner).
- B. **Notice Content** - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.

- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

14. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

15. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

16. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 14 (Confidential Information); 18 (Dispute Resolution); 16 Governing Law, 17(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

17. Entire Agreement/Authority

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms 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.

18. Agreement Documents

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

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WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair

Commissioner: Sonya Fischer

Commissioner: Ken Humbertson

Commissioner: Paul Savas

Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

**SERVICES AGREEMENT #18576
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STF and other funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$30,086. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Oregon Department of Transportation ("ODOT") has made funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet") pursuant to the Federal Transportation Administration Program for Enhanced Mobility of Seniors and Individuals With Disabilities, 49 U.S.C. §5310 ("5310 Funds"). Ride Connection is a pass-through recipient of these funds through Grant Agreement/Contract No. JP180303ZC (the "Prime Contract") from TriMet.
3. Oregon Department of Transportation ("ODOT") has made Special Transportation Funds (STF) funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet"). Ride Connection is a pass-through recipient of these funds through Grant from TriMet.
4. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County Consortium which provides transportation services inside the TriMet services District.
5. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

- A. Subrecipient agrees to comply with and use the STF funds in accordance with the terms of this Agreement including the terms of ORS 391.80 through 391.830 and the provisions of OAR Chapter 732 as may be amended, all of which are incorporated into and made part of

this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and ODOT, and Ride Connection regarding disbursement of STF and other funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance.

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services, which shall require the subcontractor to comply with ORS 391.800 through 391.830, OAR Chapter 732, as may be amended, and the terms of this Agreement. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

- B. **Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet, ODOT, and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.
- C. **Audit Right** – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

- D. **Subcontracts** – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any

responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.
- (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
- (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

E. Drug-Free Covered Agreement - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and

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- A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient's annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STF funding requirements hereunder by Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet and or, ODOT or otherwise incur costs from funder withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.

Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.

B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:

- i. Bodily injury or death to any person;
- ii. Property damage to any personal or real property owned by anyone;
- iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
- iv. Infringement of any intellectual property or other third party rights;
- v. Discharge or causing the discharge of any hazardous or polluting substance; and
- vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property

where the Services are performed.

- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend the State of Oregon, TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnatee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

7. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry 16 or more passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

Subrecipient shall perform criminal, Department of Motor Vehicles and employment background checks as part of the eligibility requirements for all drivers.

Subrecipient shall only let approved drivers transport customers or drive Ride Connection network vehicles.

8. Funding

- A. No more than monthly, Ride Connection shall reimburse Subrecipient for costs associated with activities outlined in Exhibit A. Reimbursement requests will only be paid when actual costs have been incurred and not beforehand.

Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for

the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

- B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$30,086**
- C. Subrecipient shall document eligible use of STF funds in accordance with this Agreement.
- D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at accountspayable@rideconnection.org.
- E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

9. Term

This Agreement shall be in effect from 7/1/2018 through 6/30/2019, unless the Agreement is terminated earlier as provided in this Agreement.

10. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:	Subrecipient:
Dean Orr	Stefanie Reid
Ride Connection	Clackamas County Consortium
9955 NE Glisan St.	2051 Kaen Rd
Portland, OR 97220	Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

11. Assignment/Subcontracts

Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

12. Dispute Resolution

Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

Costs and Award – The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, through all tiers of dispute resolution, including meditation, if so awarded by the arbitrator or court of jurisdiction.

13. Claims, Notice

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to funder (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.

- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

14. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

15. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

16. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 14 (Confidential Information); 18 (Dispute Resolution); 16 Governing Law, 17(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

17. Entire Agreement/Authority

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms 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.

18. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY
 Commissioner: Jim Bernard, Chair
 Commissioner: Sonya Fischer
 Commissioner: Ken Humbertson
 Commissioner: Paul Savas
 Commissioner: Martha Schrader
Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____

**SERVICES AGREEMENT #18577
BETWEEN
RIDE CONNECTION INC. and Clackamas County Consortium**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STF and other funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$30,415. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Oregon Department of Transportation ("ODOT") has made funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet") pursuant to the Federal Transportation Administration Program for Enhanced Mobility of Seniors and Individuals With Disabilities, 49 U.S.C. §5310 ("5310 Funds"). Ride Connection is a pass-through recipient of these funds through Grant Agreement/Contract No. JP180303ZC (the "Prime Contract") from TriMet.
3. Oregon Department of Transportation ("ODOT") has made Special Transportation Funds (STF) funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet"). Ride Connection is a pass-through recipient of these funds through Grant from TriMet.
4. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County Consortium which provides transportation services inside the TriMet services District.
5. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

- A. Subrecipient agrees to comply with and use the STF funds in accordance with the terms of this Agreement including the terms of ORS 391.80 through 391.830 and the provisions of OAR Chapter 732 as may be amended, all of which are incorporated into and made part of

this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and ODOT, and Ride Connection regarding disbursement of STF and other funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance.

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services, which shall require the subcontractor to comply with ORS 391.800 through 391.830, OAR Chapter 732, as may be amended, and the terms of this Agreement. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

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In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

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 - (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
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Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STF funding requirements hereunder by Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet and or, ODOT or otherwise incur costs from funder withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.

Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.

B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:

- i. Bodily injury or death to any person;
- ii. Property damage to any personal or real property owned by anyone;
- iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
- iv. Infringement of any intellectual property or other third party rights;
- v. Discharge or causing the discharge of any hazardous or polluting substance; and
- vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property

where the Services are performed.

- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend the State of Oregon, TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

7. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry 16 or more passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

Subrecipient shall perform criminal, Department of Motor Vehicles and employment background checks as part of the eligibility requirements for all drivers.

Subrecipient shall only let approved drivers transport customers or drive Ride Connection network vehicles.

8. Funding

- A. No more than monthly, Ride Connection shall reimburse Subrecipient for costs associated with activities outlined in Exhibit A. Reimbursement requests will only be paid when actual costs have been incurred and not beforehand.

Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for

the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

- B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$30,415**
- C. Subrecipient shall document eligible use of STF funds in accordance with this Agreement.
- D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at accountspayable@rideconnection.org.
- E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

9. Term

This Agreement shall be in effect from 7/1/2018 through 6/30/2019, unless the Agreement is terminated earlier as provided in this Agreement.

10. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:	Subrecipient:
Dean Orr	Stefanie Reid
Ride Connection	Clackamas County Consortium
9955 NE Glisan St.	2051 Kaen Rd
Portland, OR 97220	Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

11. Assignment/Subcontracts

Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

12. Dispute Resolution

Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

Costs and Award - The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, through all tiers of dispute resolution, including meditation, if so awarded by the arbitrator or court of jurisdiction.

13. Claims, Notice

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to funder (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.

- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

14. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

15. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

16. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 14 (Confidential Information); 18 (Dispute Resolution); 16 Governing Law, 17(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

17. Entire Agreement/Authority

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms 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.

18. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY
Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Hurabertson
Commissioner: Paul Savas
Commissioner: Martha Schrader
Signing on Behalf of the Board:

By: _____
Rich Swift, Director
Health, Housing and Human Services

Dated: _____

Approved to Form:

By: _____
Clackamas County Council

Dated: _____



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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

September 20, 2018

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with Metro for Funding for the Oak Grove – Lake Oswego Pedestrian and Bicycle Bridge Feasibility Study

Purpose/ Outcomes	Approval for the Intergovernmental Agreement for grant funds from Metro to conduct a feasibility study for the Oak Grove – Lake Oswego Pedestrian – Bicycle Bridge.
Dollar Amount and Fiscal Impact	\$306,000 in grant funds are provided under the proposed IGA, no match is required.
Funding Source	The funding source is Metro funds resulting from bonding.
Duration	This agreement will be from September 1, 2018 to September 30, 2021.
Previous Board Action	The Board previously reviewed and approved the grant application that resulted in this funding award in a Policy Session on February 13, 2018.
Strategic Plan Alignment	Build strong infrastructure.
Contact Person	Stephen Williams, Principal Transportation Planner - 742-4696
Contract No.	Metro Contract No. 935513

BACKGROUND:

Metro created a fund to support development for Active Transportation projects with the intent of creating a pipeline of projects that would be competitive for other types of grant funds. At the Board's February 13, 2018 policy session, approval was given for an application for \$306,000 of the Active Transportation Development funds for a feasibility study for the Oak Grove – Lake Oswego Pedestrian-Bicycle Bridge across the Willamette River. Through a collaborative process, the Clackamas County proposal was reviewed and recommended for funding by CTAC, the C4 Metro Subcommittee and C4, and funding was approved by JPACT and the Metro Council.

The project will assess the feasibility of a new bridge by studying the following issues: 1) Identification and evaluation of potential bridge sites on both sides of the Willamette River between the north boundary of Lake Oswego and Concord Street in Oak Grove, including connections to the pedestrian/bicycle systems; 2) Analysis of bridge type and conceptual cost, including long term maintenance costs; 3) Identification of environmental and permitting issues that must be analyzed and addressed before construction of the bridge; 4) Development of a plan for cooperation among partners including local governments, park districts, and Metro for the development and maintenance of the bridge; 5) Public involvement.

This IGA incorporates recommendations on structure and invoicing procedures from the Department of Finance Grants Management. A detailed Scope of Work is included in this IGA. Since procurement has not been carried out for this project yet, the costs for the deliverables should be viewed as estimates prepared by staff based on previous experience. In all likelihood, at least one amendment to this IGA will be necessary to incorporate the costs negotiated with the selected consultant during the procurement process. This IGA contains provisions allowing amendments to the Scope of Work that don't require funding from Clackamas County to be approved by either the Board or the Director of Department of Transportation and Development.

This IGA has been reviewed and approved by the County Counsel's office.

RECOMMENDATION:

Staff respectfully recommends the approval of this Intergovernmental Agreement for \$306,000 for the Oak Grove – Lake Oswego Pedestrian – Bicycle Bridge Feasibility Study.

Respectfully submitted,

Stephen Williams
Principal Transportation Planner
Transportation and Development

Intergovernmental Agreement

Metro Contract No. 935513

THIS AGREEMENT is between **Metro**, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and **Clackamas County, by and through its Department of Transportation and Development**, referred to herein as "the Department," located at 150 Beaver Creek Road, Room 325, Oregon City, Oregon 97045.

Background

Metro is the federally mandated metropolitan planning organization (MPO) designated by the Governor to develop an overall transportation plan for the region. The Metropolitan Transportation Improvement Program (MTIP) documents how all federal transportation money is spent in the Portland metropolitan area. It also documents state- and locally-funded projects that may significantly affect the region's air quality. As the MPO for the Portland region, Metro is required to prepare the MTIP documenting funded projects scheduled for the next four years.

Regional flexible funds are money from the federal government that may be used for a wide range of projects. In the 2018-2021 Metropolitan Transportation Improvement Program and 2019-2021 Regional Flexible Funds Allocation Policy Statement, the Metro Council approved use of \$2 million in locally bonded Regional Flexible Funds to use for project development to help prepare a pipeline of active transportation projects and better position the region to win federal, state and local transportation funds. Project development includes activities such as refining alignments, design, public outreach, permits and clearances, finalizing right of way acquisition, and finalizing specifications.

In May 2017, the Metro Council approved Resolution No. 17-4800, which provided, among other things, for the commitment of regional flexible funds for certain TriMet bond commitments. In June 2017, TriMet and Metro entered into an Intergovernmental Agreement where Metro committed to facilitate TriMet's receipt of the aggregate annual amount of MTIP Funds and regional flexible funds and TriMet committed to provide bond proceeds for certain identified projects (Metro Contract No. 934681). In November 2017, The Metro Council approved Resolution No. 17-4848, which provided, among other things, authority to execute an amended IGA between Metro and TriMet, to incorporate an increased multi-year commitment of regional flexible funds. In July 2018, Metro and TriMet entered into a subsequent Intergovernmental Agreement in which TriMet agreed, among other things, to transfer to Metro \$2,000,000 for the Active Transportation / Safe Routes Projects (Metro Contract No. 935334).

With direction from the Metro Council and the Joint Policy Advisory Committee on Transportation (JPACT) finance-subcommittee, local jurisdictions and regional partners identified eleven (11) active transportation projects to receive bond proceeds for project development funding. Projects were pulled from a previously refined list of projects as shown in Metro's "Active Transportation: 10-Year Investment Scenarios for Connected Centers and Corridors." Projects were identified through a collaborative process conducted with each county and the City of Portland using a set of criteria to select the projects. Stakeholders had opportunities to provide input during the process. At the March 27, 2018 work session, the Metro Council provided direction to staff to bring the list of projects to JPACT for endorsement. The Clackamas, Multnomah and Washington County Coordinating Committee's formally endorsed the identified projects at their March and April 2018 meetings. Portland Commissioner Dan Saltzman endorsed Portland's projects in April 2018. At the May 4, 2018 meeting, the Transportation Policy Alternatives Committee (TPAC) unanimously recommended that JPACT endorse the project to receive funding for project development activities. On May 17, 2018, JPACT endorsed the projects.

Metro allocated \$1.7 million of bond proceeds resulting from the regional flexible funds for development of the eleven (11) active transportation projects; the remaining \$300,000 will be used to conduct a cost benefit analysis of the region's investment priorities in active transportation and develop a baseline development assessment of those projects. Some project sponsors provided additional cash or in-kind contributions, though match was not required.

The Oak Grove – Lake Oswego Pedestrian Bicycle Bridge ("the Project") is one of the eleven (11) projects identified by Metro and local partners and endorsed by JPACT. The purpose of this Agreement is to facilitate funding of the Project.

Intergovernmental Agreement

Metro Contract No. 935513

1. Term

The term of this Agreement will be from **September 1, 2018** through **September 30, 2021**, unless terminated or extended as provided in this Agreement.

2. Scope of Work

The Department must perform all activities specified in the attached "Exhibit A – Scope of Work," which is incorporated into this Agreement by this reference as if set forth in full. To the extent that the Scope of Work contains additional Agreement provisions or waives any provision in the body of this Agreement, the Scope of Work controls.

3. Changes to Scope of Work

The Department and Metro may modify the Scope of Work, upon mutual agreement, provided that there are no changes to the Department's contribution nor substantial changes to the schedule covered by the Scope of Work and so long as the change does not require adoption by JPACT or the Metro Council. Modifications to the Scope of Work consistent with the limitations set forth in this Section may be authorized on behalf of the Department by the Director of Transportation and Development or his or her designee. Notwithstanding any limits on amendments to the Scope of Work contained in this section, if additional non-federal funding emerges to advance the project development, design, or construction of the project, the Department and Metro may amend this IGA to add, update, or revise "Exhibit A – Scope of Work" so long as the change does not require adoption by JPACT or the Metro Council.

4. Compensation

The total Agreement amount is **THREE HUNDRED SIX THOUSAND AND NO/100THS DOLLARS (\$306,000.00)**. This amount includes bond proceeds to be dispersed to the Department by Metro not to exceed **THREE HUNDRED SIX THOUSAND AND NO/100THS DOLLARS (\$306,000.00)**. Metro will reimburse the Department only for work completed on the Project during the effective date of the Agreement period.

5. Payment

Metro will reimburse the Department as set forth in the Scope of Work.

6. Excess Funds

If the Department fails to start or complete the Project, or completes the Project without expending all of the funds, any remaining bond proceeds funds for the Project will be considered to be excess flexible funds. These excess funds will revert to Metro to return to TriMet pursuant to Contract No. 935334; or, the Project sponsor/local jurisdiction receiving the bond proceeds funds may make a written request for a change under the Scope of Work change management provision. Reallocation of the funds may be done administratively or may require JPACT approval.

7. Right to Withhold payments

Metro will have the right to withhold payments due to the Department such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from the Department's performance or failure to perform under this Agreement or the failure of the Department to make proper payment to any suppliers or subcontractors. Metro will retain 10% of the Project funds provided by Metro. Metro will release the retained funds to the Department upon substantial completion of the Project as described in the Scope of Work.

Intergovernmental Agreement

Metro Contract No. 935513

8. Funding Recognition

The Department must recognize Metro and use Metro's logo in any publications, media presentations, or other presentations referencing the Project produced by or at the direction of the Department, including, without limitation, any on-site signage.

9. Records Maintenance

The Department must maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles ("GAAP"). In addition, the Department must maintain any other records pertinent to this Agreement in such a manner as to clearly document the Department's performance. The Department must retain and keep accessible all such fiscal records, books, documents, timesheets, 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.

10. No Third Party Beneficiary

Except as set forth herein, this Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or will 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 term.

11. Indemnity

To the extent permitted by Oregon law and subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the Department agrees to indemnify and defend Metro and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees at trial and on appeal, arising out of or in any way connected with its performance of this Agreement.

12. Termination for Cause

- a. Subject to the notice provisions set forth in Section 2 below, Metro may terminate this Agreement, in full or in part, at any time during the term of the Agreement if Metro reasonably determines that the Department has failed to comply with any provision of this Agreement and is therefore in default.
- b. Before terminating this Agreement in accordance with Section 1 above, Metro will provide the Department with written notice that describes the reason(s) that Metro has concluded that the Department is in default and includes a description of the steps that the Department must take to cure the default. From the date that such notice of default is received by the Department, the Department will have 30 days to cure the default. If the default is of such a nature that it cannot reasonably be cured within 30 days, the Department will have such additional time as required to cure the default, as long as it is acting in a reasonable manner and in good faith to cure the default. In the event the Department does not cure the default within the 30-day period, Metro may terminate all or any part of this Agreement, effective on any date that Metro chooses following the 30-day period. Metro will notify the Department in writing of the effective date of the termination.
- c. The Department will be liable to Metro for all reasonable costs and damages incurred by Metro as a result of and in documentation of the default. Following such termination, should Metro later determine or a court find that the Department was not in default or that the default was excusable (e.g., due to a labor strike, fire, flood or other event that was not the fault of, or was beyond the control of, the Department) this Agreement will be reinstated or the parties may agree to treat the termination as a joint termination for convenience.

Intergovernmental Agreement

Metro Contract No. 935513

13. Joint Termination for Convenience

Metro and the Department may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision will be effective only upon the mutual, written termination agreement signed by both Metro and the Department.

14. Dispute Resolution

This Agreement is to be construed according to the laws of the State of Oregon. The Department and Metro shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the Parties are unable to resolve any dispute within fourteen (14) calendar days, the Parties shall attempt to settle any dispute through mediation. The Parties shall attempt to agree on a single mediator. The cost of mediation will be shared equally. If the parties agree on a mediator, the mediation must be held within 60 days of selection of the mediator unless the Parties otherwise agree. If the Parties cannot agree on a mediator, or the matter is not settled during mediation, the Parties will have all other remedies available at law or in equity.

15. State and Local Law Compliance

The Department must comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement. The Department must comply with the State of Oregon requirements for crossing an interstate highway.

16. Discrimination Prohibited

No recipient or proposed recipient of any services or other assistance under the provisions of this Agreement or any program related to this Agreement may be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this Agreement on the grounds of race, color, or national origin, 42 U.S.C. §2000d (Title VI), or on the grounds of religion, sex, ancestry, age, or disability as that term is defined in the Americans with Disabilities Act. For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Department receiving funds pursuant to this Agreement.

17. Notice of Project Risk

The Department must inform Metro immediately of any actual or potential problems or defects that present potential risk to the project moving forward.

18. Independent Contractor Status

The Department is an independent contractor for all purposes and is entitled only to the compensation provided for in this Agreement. Under no circumstances will the Department be considered an employee of Metro. The Department must provide all tools or equipment necessary to carry out this Agreement, and will exercise complete control in achieving the results specified in the Scope of Work.

The Department is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement.

Intergovernmental Agreement

Metro Contract No. 935513

19. Notice and Parties Representatives

The parties must address any notices permitted or required by this Agreement to the other party's representative(s) as set forth below and will be deemed received (a) on the date they are personally delivered, (b) on the date they are sent via facsimile, or (c) on the third day after they are deposited in the United States mail, postage fully prepaid, by certified mail return receipt requested. Either party may change its representative(s) and the contact information for its representative(s) by providing written notice to the appropriate designated representative below.

Department's Designated Representative:

Stephen Williams
Principal Transportation Planner
Clackamas County
150 Beaver Creek Road, Room 325
Oregon City, Oregon 97045
503-742-4696
503-742-4659 fax
swilliams@clackamas.us

Metro's Designated Representative:

Grace Cho
Associate Transportation Planner
Metro
600 N.E. Grand Avenue
Portland, OR 97232-2736

with copy to:

Metro
Office of Metro Attorney
600 N.E. Grand Avenue
Portland, OR 97232-2736

20. Assignment

The Department may not assign or transfer this Agreement without written permission from Metro.

21. Choice of Law

The situs of this Agreement is Portland, Oregon. Any litigation over this Agreement will be governed by the laws of the State of Oregon and will be conducted in the Circuit Court of the State of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

22. No Waiver of Claims

The failure to enforce any provision of this Agreement does not constitute a waiver by Metro of that or any other provision.

Intergovernmental Agreement

Metro Contract No. 935513

23. Modification

Notwithstanding and succeeding any and all prior agreements or practices, this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing, signed by both parties.

24. Severability

If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

25. Authority

The representatives signing on behalf of the Parties certify they are duly authorized by the Party for whom they sign to make this Agreement.

26. Further Assurances

Each of the Parties shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent and agreements of the Parties hereto.

27. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which will constitute one and the same instrument.

28. No Special or Consequential Damages

The Department expressly waives any claims against Metro regarding the Scope of Work under this Agreement. In no event will Metro be liable for and the Department specifically releases Metro from any liability for special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Agreement or for any failure of performance related to the Scope of Work or this Agreement, however caused, whether or not arising from Metro's sole, joint or concurrent negligence.

The DEPARTMENT, BY EXECUTION OF THIS AGREEMENT TO AGREE, HEREBY ACKNOWLEDGES THAT THE DEPARTMENT HAS READ THIS AGREEMENT TO AGREE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Clackamas County

By: _____

Printed: _____

Title: _____

Date: _____

Metro

By: _____

Printed: Martha Bennett

Title: Chief Operating Officer

Date: _____

Exhibit A – Scope of Work

Metro Contract No. 935513

Project Title: Oak Grove – Lake Oswego Pedestrian Bicycle Bridge
RTP No. 10085

Estimated budget at time of award:
Total Cost of Project: \$306,000
Metro Award \$306,000

The project application is attached to the Scope of Work as Attachment 1.

The Department will proceed with the Project as follows:

1. The Department agrees to proceed with the Project as scheduled and submit to Metro the following deliverables in full:

Task and Deliverables	Timeframe	Estimated Metro Allocation Amount
<p>Task 1: Project Management and Oversight Report to Metro on a quarterly basis documenting the status of the project, completion of tasks and the anticipated work in the coming quarter. The reports will include a statement regarding progress on the project and percentage complete. Also state whether the project is on schedule, ahead of schedule or behind schedule, describe any unanticipated events and describe the next quarter's tasks. In addition the quarterly progress reports will provide updates on consultant management including RFP, selection, contract development and progress.</p>	<p>October 2018 – December 2020</p>	<p>\$25,000</p>
<p>Task 1 Deliverables: 1a Quarterly Progress Reports</p>	<p>October 2018</p>	<p>10 reports @ \$2,500 each = \$25,000</p>
<p>Task 2: Intergovernmental Coordination The feasibility study will involve extensive coordination between local, regional, state and federal government partners. Intergovernmental coordination will take place through a Policy Committee (PC) and project Technical Advisory Committee (TAC). The PC will be composed of elected officials from key partners to meet and make decisions on the project direction. The TAC will provide input on the study approach, and also develop an organizational plan for the development, construction, operations and maintenance of the proposed bridge by an intergovernmental group formed specifically for that purpose.</p>	<p>August 2018 – December 2020</p>	<p>\$21,500</p>

Exhibit A – Scope of Work

Metro Contract No. 935513

Task 2 Deliverables:		
2a	Policy Committee – A PC will be formed by appointment of one elected official each from Clackamas County, the cities of Lake Oswego and Milwaukie, and Metro. The PC will meet three times at key points in the study process to determine the direction of the study and project.	October 2018 – December 2020 3 meetings @ \$1,500 each = \$4,500
2b	Technical Advisory Committee – Establish a TAC including representatives from Clackamas County, North Clackamas Parks and Recreation District, the cities of Milwaukie and Lake Oswego, Metro, Oregon Department of Natural Resources, Oregon Department of Environmental Quality, U.S. Army Corp of Engineers, and U.S. Coast Guard. TAC will meet no less than every three months to review project status and draft products, and provide input to the project manager.	October 2018 – December 2020 8 meetings @ \$1,500 each = \$12,000
2c	Organizational Plan for Bridge Development, Construction, Operations and Maintenance – Working with the TAC, the Department will develop a plan for the development, construction, operations and maintenance of the bridge by a group of governmental stakeholders.	January 2019 \$5,000
Task 3: Analysis of Alternative Locations for Bridge Analyze alternative locations to identify those that are feasible for proposed bridge. The determining factor for feasibility will be availability on both sides of the Willamette River of publically-held land that can be used for bridge landing sites. If multiple sites are identified the sites will be scored using criteria such as availability of right-of-way, connections to the existing and planned bike and pedestrian network, suitability for emergency response use, cost and other issues.		November 2018 – October 2019 \$105,500
Task 3 Deliverables:		
3a	Location Criteria Memo – Identify ranking criteria, in priority order, to be used to rank available publically-owned sites.	November 2018 \$10,000
3b	Property Inventory Technical Report – Identify public agency held properties adjacent to the Willamette River of sufficient size to serve as bridge landing locations between the north limits of Lake Oswego and Concord Street extended in Oak Grove.	December 2018 \$5,000
3c	Assessment of Bridge Locations Report – Assess all proposed bridge locations and select the three best pairs of bridge landing points based on the Location Criteria.	December 2018 - February 2019 \$15,500
3d	Engineering Design Criteria Memo – Identify the limiting factors that will control the design of any bridge.	February 2019 - March 2019 \$10,000

Exhibit A – Scope of Work

Metro Contract No. 935513

3e	Bridge Concepts Report – Plan/elevation line drawings of deck concepts showing all identified limiting factors including span, alignment, height above mean high water, and slope	March 2019 - July 2019	\$20,000
3f	Bridge Type Concepts – Identify bridge type concepts with preliminary sketches for each of up to four bridge locations.	July 2019 - September 2019	\$30,000
3g	Alternative Bridge Locations Report	October 2019	\$15,000
Task 4: Scoping for NEPA and Permitting Work with units of local, regional, state, and federal government with responsibility for environmental approvals and permitting to conduct a scoping process for the proposed bridge to identify special studies, data collection and analysis that will be necessary to secure environmental approvals and required permits.		September 2019 – January 2020	\$20,000
Task 4 Deliverables:			
4a	Identify Agencies and Environmental Checklist – Identify all local, regional, state and federal agencies with responsibility for environmental approvals and permitting. Prepare an environmental checklist for the proposed project.	September 2019	\$4,000
4b	Scoping Workshop – Conduct a half day workshop with the federal, state, regional and local stakeholders to identify required studies, and scope for meet NEPA assessment and permitting needs.	October 2019 – November 2019	\$10,000
4c	NEPA and Permitting Scoping Report – Prepare the draft NEPA and permitting scoping report and circulate to stakeholders for review and comment. Incorporate comments and prepare final NEPA and Permitting Scoping Report.	December 2019 - January 2020	\$6,000
Task 5: Planning Cost Estimates and Funding Prepare planning-level cost estimates and funding plans for up to four bridge alternatives including costs for project development, operations and maintenance.		January 2020 – June 2020	\$50,000
Task 5 Deliverables			
5a	Project Development Costs Memo – Planning-level cost estimates for each bridge location/type including, preliminary engineering, right-of-way (if any), utilities, final PS&E, construction engineering, and full construction costs.	January 2020 – February 2020	\$15,000
5b	Operations and Maintenance Costs Memo – Planning-level operations and maintenance costs for each bridge location/type for first 20 years, including annual maintenance and estimated costs for less frequent replacement or repair of critical components.	March 2020 – April 2020	\$15,000
5c	Funding Plan – Prepare a planning level funding plan for each bridge location/type that identifies sources for all project development/construction	May 2020	\$15,000

Exhibit A – Scope of Work

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5d	funding, and also for on-going operations/ maintenance. Planning Cost Estimates and Funding Plan Report	June 2020	\$5,000
Task 6: Public Involvement Conduct public involvement activities including advisory committee meetings, provide information and seek feedback through public presentations as well as online; and secure input online, through public meetings, and other public engagement activities.		October 2018 – December 2020	\$69,000
Task 6 Deliverables:			
6a	Community Advisory Committee (CAC) – Form a CAC to be composed of appointed representatives from each of the following: local governments, community, environmental and business groups from the project area. The CAC will meet at least once every three months. All meetings will be treated as public meetings under Oregon Law. CAC members will be responsible to review and provide input on project studies and materials, and also to brief their organizations.	October 2018 – December 2020	6 meetings @ \$1,500 each = \$9,000
6b	Environmental Justice/Equitable Development Analysis – Securing involvement from historically marginalized communities and minimizing displacement are important considerations for this project. Various data sets will be analyzed to identify historically marginalized communities and households at risk of displacement. This data will be used during this feasibility study to focus outreach to historically marginalized communities and in later stages to help focus efforts to minimize displacement or other issues/concerns identified by historically marginalized communities through focused outreach efforts conducted as part of the project. Administrative records will be analyzed to identify residential/commercial properties most likely to be subject to rapid rehabilitation and re-sale.	October 2018 – March 2019	\$9,000
6c	Project Website – Provide and maintain a project website with information on the project and schedule, access to project materials, and a portal for questions or comments on the project.	October 2018 – December 2020	\$10,000
6d	Newsletter – On a quarterly basis – or more frequently if needed -- prepare and distribute an electronic newsletter and/or paper newsletter highlighting project activities and studies, upcoming meetings, and project schedule. The newsletter should be distributed via email to the list of interested parties, via the project website to others and, as needed in hard copy to those who do not	October 2018 – December 2020	6 newsletters @ \$1,000 each = \$6,000

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	have access to the electronic forms. Translation of the newsletter will be provided based on the need identified in the environmental justice/analysis of historically marginalized populations, or as requested.		
6e	Public Meetings – Three public meetings will be conducted in the course of the project at key decision points. Demographic data will be collected to determine how effectively traditional public meetings serve the community.	October 2018 – December 2020	3 public meetings at \$5,000 each - \$15,000
6f	Webinar Public Meetings – The Department has become concerned that traditional public meeting approaches limit participation to small segments of the population who have the time to come to a public meeting on a mid-week evening. As part of this project, the Department will test webinar and/or online public meetings. The Department can produce such webinar public meetings inexpensively using existing Clackamas County facilities. The intent is for these meetings to be conducted similar to typical webinars with a presentation and moderated questions and answers. Participants should be able to provide input during the webinar and also through online comment forms. The webinar public meetings will be recorded and available for later viewing. The Department will collect demographic data on the webinar to determine if the webinar reaches a broader audience than traditional public meetings.	October 2018 – December 2020	3 public meetings at \$5,000 each - \$15,000
6g	Public Involvement Report – Summary and analysis of public comments and input received at all public meetings, through the project website and through other public engagement methods, copies of all outreach materials.	December 2020	\$5,000
Task 7: Final Report Prepare a final report entitled the <u>Oak Grove – Lake Oswego Pedestrian and Bicycle Bridge Across the Willamette River Feasibility Study</u> . The final report will incorporate the reports prepared for Tasks 2 to 6 as amended through the course of the study, as well as an Executive Summary and graphics, photos, slides, etc., as appropriate, to share findings with the public and partner agencies.		October 2020 – December 2020	\$15,000
Task 7 Deliverable: Final Report			

2. Project Location: Oak Grove – Lake Oswego, Clackamas County, Oregon

Exhibit A – Scope of Work

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3. Publicity:

As a courtesy, the Department will inform and invite Metro to project related activities including but not limited to technical committees, site visits, and any public opening ceremony and/or events. The Department must recognize Metro, using the Metro logo, in any publications, media presentations, or other presentations referencing the Project.

4. The Department agrees to submit to Metro regular progress reports as follows:

a) Quarterly Progress Reports: In addition to the Project Deliverables set forth above, once work has begun, the Department must provide to Metro a progress report, documenting the status of the Project. The Department must submit the progress report to Metro quarterly. The first progress report will be due at the start of the project and will detail the tasks and deliverables to be completed in the first quarter of the project. The Department must include the following details in all progress reports:

- i. An account of the work accomplished to date.
- ii. A statement regarding the Department's progress on the Project.
- iii. The percentage of the Project completed.
- iv. A statement as to whether the Project is on schedule or behind schedule.
- v. A description of any unanticipated events.
- vi. A description of the next quarter's tasks.

b) The Department must submit all progress reports in a memorandum format with the title of "Progress Report: Oak Grove – Lake Oswego Pedestrian Bicycle Bridge" or in another Metro approved and documented reporting method.

c) Final Report:

The Department must submit a final report and final reimbursement request within sixty (60) days of the earlier (a) the Project completion date or (b) the expiration date of the Intergovernmental Agreement. The final report must include:

- i. Full and final accounting of all expenditures.
- ii. The value and source of all local contribution funds.
- iii. A description of work accomplished.
- iv. Volunteer hours and participation (if applicable).
- v. Project photos (including a photo of the signage acknowledging Metro during construction), if used.

d) The final report submitted by the Department must be in the Final Report provided by Metro unless Metro approves in writing another reporting method.

5. Reimbursement - Limitations:

a) Payments may not exceed the amount budgeted per Project Deliverable identified in the Scope of Work.

- i. In the event a Project Deliverable does not expend its entire budget, funds may be carried over to the next Project Deliverable.
- ii. In the event of cost overrun, no additional funding will be granted.

b) Before the first reimbursement request, the Department must provide a written explanation on the strategy to be deployed to address the possibility of cost overruns on the Project.

Exhibit A – Scope of Work

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- c) The Department should expend awarded amount of funding according to the timeline and schedule. If awarded amount of funding is not expended according to schedule, then the Department must make a written change management request to Metro. Otherwise, if timely expenditure is not made, Metro may terminate the Agreement.

- d) Retainage:

Metro will reserve as retainage an amount equal to 10% of the total funds Metro has committed to the Project. Metro will reimburse the Department in full for Project expenditures until Metro has released 90% of the funds, and will reserve the remaining 10% as retainage. The total retained funds will be disbursed to the Department once the Project is fully completed and approved by Metro. Following completion of the Project and approval by Metro, Metro will deliver to the Department the entire retainage as part of the final reimbursement payment. For the purposes of this section, completion of the Project means that Metro has verified in writing to the Department that the Project is substantially complete.

6. Change Management:

- a) Metro will shift funds that the Department did not use in earlier stages of the Project to later phases of the Project without a change request. The Department may not advance or move funds budgeted for a later Project Deliverable of the Project to an earlier Project Deliverable.
- b) The Department must make a request for the following changes to the Project:
 - i. A revision to the Project scope of work and/or timeline.
 - ii. Addition of local funds to the Project.
- c) Change requests to reduce the scope of the Project will not change local contribution commitment on the Project.
- d) The Department must submit change requests to Metro in writing.

7. Reimbursement – Invoicing:

- a) The total Agreement amount is **THREE HUNDRED SIX THOUSAND AND NO/100THS DOLLARS (\$306,000)**. This amount includes bond proceeds to be dispersed to the Department by Metro not to exceed **THREE HUNDRED SIX THOUSAND AND NO/100THS DOLLARS (\$306,000)**.
- b) The Department is solely responsible for paying the Department's subcontractors and nothing contained herein will create or be construed to create any contractual relationship between any contractor or subcontractor and Metro.
- c) All invoice payments are conditional upon Metro's Project Manager's approval of the deliverables. Deliverables being invoiced for reimbursement must accompany invoices. The Department must present progress reports to Metro's Project Manager on a quarterly basis.
- d) The Department's invoices must display one hundred percent (100%) of the total project costs incurred during the period of the invoice, and identify any required contribution amounts. Documentation includes without limitation copies of receipts for expenditures, timesheets, or system-generated accounting reports documenting the actual expense. Metro must receive and accept the documentation before Metro makes payment.

Exhibit A – Scope of Work

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e) The Department must include in the invoice:

- Metro Contract No. 935513
- Department name
- Remittance address
- Invoice date
- Invoice number
- Invoice amount
- Itemized statement of work performed and expenses incurred during the invoice period
- **Required** to be submitted quarterly

f) The Department must send the invoice to:

Metro
Grace Cho – Project Manager
600 N.E. Grand Avenue
Portland, Oregon 97232-2736

or:
grace.cho@oregonmetro.gov

g) The Department must reference the Metro Contract No. 935513 in the email subject line.

h) Pursuant to Metro's fiscal year end, the Department's invoices for services through June 30 of each year of the contract period must be submitted to Metro no later than July 30. Metro will make payment on a Net (thirty) 30 day basis upon approval of The Department's invoice and quarterly progress report.



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Exhibit A – Scope of Work

Metro Contract No. 935513

**ATTACHMENT 1
PROJECT APPLICATION
TO FOLLOW**



Project Development Scope of Work Form

Complete this form for projects proposed to receive 2019-2021 RFFA bond proceeds for project development of active transportation projects.

Project requirement checklist – project must:

Yes Help complete the regional bicycle and/or pedestrian network (<https://gis.oregonmetro.gov/rtp/>)

Yes Be in a local Transportation System Plan

Yes Be in the 2014 Regional Transportation Plan or the draft 2018 Regional Transportation Plan

Name of Project: **Willamette River Ped Bike Bridge Feasibility Study**

Total project cost (start to finish): \$21,536,380

Amount requested for project development: \$306,000

Project Contact

Name, title, phone & email for:

1. Project Lead: Stephen Williams, Principal Transportation Planner, (503) 742-4694, swilliams@clackamas.us
2. Project Manager: Karen Buehrig, Transportation Planning Manager, (503) 742-4683, KarenB@co.clackamas.or.us
3. Project Engineer: Joel Howie, Capital Project Manager, (503) 742-4658, JHowie@co.clackamas.or.us

Project Information

1. City (ies) where project is located: Lake Oswego/Milwaukie
2. County(ies) where project is located: Clackamas County
3. Start location To be determined in the proposed study End location To be determined in the proposed study
4. Corresponding TSP project number(s) for the nominated project: Clackamas County #2022
5. Corresponding RTP project number(s) for the nominated project: Draft 2018 RTP #10085

Current Project Description

1. Briefly describe the project purpose (what issue or need will the project address) The Willamette River is a major barrier to pedestrian and bike mobility in the Metro region south of downtown Portland. A gap of approximately 10 miles without ped/bike access across the Willamette River exists between Sellwood Bridge and the Oregon City Bridge. The purpose of this project is to provide a ped-bike bridge across the Willamette River connecting Lake Oswego downtown to areas east of the river and the regional and local ped bike systems greatly increasing ped-bike mobility within the southern portion of the Metro Planning Area.

2. Summarize the planning and project development process for this project to date (identify plans, studies, or documents that have led to the current project definition): Originally it was hoped that a ped-bike accommodation could be built on the side of the existing UPRR bridge with the support of the railroad. A study conducted by Metro and local partners in 2009 determined that the railroad would not agree to that concept. As a result of this determination, the local governments have determined that a new ped-bike bridge is the only feasibility alternative and are seeking to conduct this study to assess the feasibility of such a bridge. If the partners determine that this project is feasible, this study will result in an agreement to move forward, as well as the inputs that are necessary for a complex project such as this one to advance into the full project development process.
3. Describe the preferred alignment(s) of the project: Identifying the preferred alignment for a new bridge across a major river in an urban environment is not an easy task and will be the major work task for this study. Most discussion for this project has focused on the the bridge being located between central Lake Oswego on the west side of the river and Oak Grove on the east (see attached map). This location provides a connection between the Lake Oswego downtown with higher density housing in the Oak Grove area. The largest task of this feasibility study is an alternatives analysis to identify alignments/design concepts and analyze their feasibility. If the project is advanced by the partners the preferred alignment will be determined at the conclusion of the environmental review process.
4. Describe the major design features of the project (*Example: project will include a buffered bikeway of X width, bikeway intersection treatments, wayfinding, bicycle signal, and median*): This project will provide an exclusive ped-bike bridge across the Willamette River, approach structures and fully separated ped-bike connections to the existing regional and local ped-bike network on both sides of the river.
5. Are the preferred alignments and major design features broadly known and supported, or subject to change through the remaining project development process? There has been strong public support on both the east and west sides of the river for the development of a proposed ped-bike bridge. As noted above the preferred alignment will be identified at the conclusion of the NEPA process. The major design features as identified in the previous question (exclusive ped-bike bridge, fully separated connections to the regional ped-bike network) are not subject to change. More detailed alternatives analysis and conceptual design tasks to be conducted in this feasibility study will identify specific treatments in greater detail.
6. Describe known or potential impacts to other agency's facilities, prior coordination with those agencies (ODOT, transit, railroads, utilities, etc.) about potential impacts to date, and potentially needed permits or agreements: Coordination with the railroad occurred during the previous process and resulted in the understanding that use of the railroad bridge for the ped-bike crossing was not an option. Impacts to other agencies facilities and coordination with the resource agencies will occur in the course of this feasibility study. Permitting requirements or agreements will be identified in this feasibility study and secured during the project development process.
7. Describe whether right-of-way impacts (both construction easements and permanent) are known and if so, whether right-of-way is secured or not: Right-of-way impacts are not known. However, the desire of the project sponsors is to use existing public lands on either side of the river for the bridge landing points and avoid the need to secure additional right-of-way.
8. Describe how the project will address the needs and contribute to desired outcomes, including:

- a. Will the project serve Title 1 schools, low-income, low-English proficiency, non-white, elderly and young, and/or persons with disabilities populations? Yes or No: Yes If yes, how? The Oak Grove Elementary School is a Title 1 school. The Oak Grove area has higher densities than is typical in Clackamas County of those with low income, low-English proficiency, those with disabilities or who are non-white. The Willamette River Ped-Bike Bridge will increase access to jobs and to community places/services for the residents of Oak Grove. In addition, the highest density concentration of seniors in Clackamas County is located in the immediate area of the proposed project. The Lake Oswego area has a higher than typical density of seniors. The proposed bridge will provide greatly expanded opportunities for bike and pedestrian mobility benefiting the populations of both communities.
- b. Will the project reduce fatal and severe injury pedestrian and bicycle crashes or address a high risk location? Yes or No: Yes If yes, how? Travel for pedestrians or bikes between locations on the east and west side of the Willamette River, such as Oak Grove and Lake Oswego currently requires a trip of 10 miles through a number of high risk corridors and intersections including River Road, McLoughlin Blvd and OR 43. The addition of the Willamette Ped-Bike Bridge will reduce that trip to less than a mile in length on fully separated ped-bike facilities, greatly reducing the risk of crashes and injury.
- c. Will the project provide walking and bicycle access within 1/4 mile of transit stops and stations? Yes or No: Yes. If yes, how? The Willamette Ped-Bike Bridge provide direct pedestrian and bicycle connection between two of the highest ridership transit routes in Clackamas County. This will greatly expand access to transit for those on both sides of the river.
- d. Will the project provide walking and bicycle access within 1/4 mile of a school? Yes or No: Yes If yes, how (provide name of school(s))? Oak Grove Elementary School
- e. Will the project use design treatments that will lead to increased use of active transportation modes by providing a good user experience/increasing user comfort? Does the project provide a high degree of separation between people walking and bicycling and motor vehicle traffic? Yes or No: Yes If yes, how? The proposed project will provide a separated ped-bike facility between Oak Grove and Lake Oswego. This facility will improve the user experience and comfort due to full separation from motor vehicle traffic and a reduction in trip length from over 10 miles to just 1 mile. These benefits will lead to increased use of active transportation modes and greatly increase the places and destinations that are accessible by ped-bike.
- f. How will the project improve access to and from priority destinations, serve high density areas, and/or increase the number of people walking and bicycling to help relieve congestion? Yes or No: Yes If yes, how? Lake Oswego and Oak Grove are two of the higher density locations within Clackamas County and have many priority destinations. These

locations are separated by only a few thousand feet across the Willametter River. The lack of a connecting bridge means that those wishing to go from one to the other by bike must travel at least 10 miles. The proposed bridge would bring those priority destinations within range of an easy ped-bike trip from either side of the river, great improving access. The bridge would also provide opportunities to replace longer vehicle trips with short pedestrian or bicycle trips, reducing congestion.

- g. Other needs and desired outcomes the project will address identified in the project purpose statement: The proposed bridge will open access to a beautiful view of the Willamette River. In addition to the transportation benefits, we think it will also be an attraction and a benefit to the communities.
9. Describe the existing project funding strategy (will federal or ODOT program funds potentially be requested?): Identification of the funding strategy is an important purpose of this feasibility study. This study will identify and secure the support of a group of partner governments to support both the development/construction of the project as well as the long term operations and maintenance. Likely sources of funding include the North Clackamas Park and Recreation District, the local governments as well as the proposed regional bond and possibly federal funds through Metro/ODOT.

Project Development Scope, Cost and Funding Request

1. Total estimated cost for project development (should equal combined amounts identified in #2, 3, and 4, below): \$ 2,584,366 (full cost of all development tasks including the cost of the previous Metro study, cost of this proposed feasibility analysis, and full environmental, design and permitting costs that will be incurred if the project moves forward)
2. Amount already expended on project development (estimate is okay): Less than \$100,000 (Metro 2009 study)
3. Planned additional local contribution to project development (not required): \$ 0
4. Total amount requested of RFFA bond proceeds for project development: \$ 306,000
5. Total estimated project cost through construction (including project development): \$ 21,536,380
6. Provide preliminary project cost estimate to date and a brief description of the method and level of confidence of the estimate (attach any documentation available): The project cost estimate was developed by Clackamas County capital projects staff based on typical costs for a ped-bike bridge of this type.
7. Project cost estimates reviewed by Project Engineer (name): Joel Howie, PE

Required Additional Information

1. GIS shapefile of the project. The exact location of the proposed project is not known at this time and will be the subject of this study. The attached map shows public and privately owned

properties on both shores of the Willamette River in the area that is viewed as the most likely location for the bridge based on current information.

2. Project Development Scope of Work Main Tasks and Summary Costs– use the attached template and modify as necessary.

Purpose and Desired Outcomes
Provide a brief summary description (2-4 lines of text) of the purpose and desired outcomes of the project development work (<i>Example: The purpose and objective of this study is to....(purpose statement, desired outcomes) and is located in the . . . (describe study location with boundary limits)</i>)
<p>Purpose of Project: There is currently a 10 mile segment of the Willamette River between Sellwood Bridge and the Oregon City Bridge without ped-bike access across the river. The proposed ped-bike bridge between Lake Oswego and Oak Grove/Milwaukie would provide an active transportation connection across the river greatly increasing ped-bike mobility, add an important scenic and community asset, and improve access to jobs and community places for those in historically marginalized communities.</p> <p>Outcomes of the Willamette River Ped-Bike Bridge Active Transportation Development Project: The outcomes of this proposed active transportation development project are to 1) Identify the preferred location, bridge concept and cost; 2) Work with regional, state and federal partners to determine the scope and special studies that will be needed for environmental review and permitting; 3) Develop a funding plan for full project development and construction as well as on-going operations and maintenance; 4) Work with local, regional and state partners to identify appropriate roles and contributions to the project development, operations and maintenance; 5) Conduct public input to gauge the public support/concern about the proposed project.</p> <p>Location: Although a specific location has not been identified, the study will focus on public properties along the run of the Willamette River between Milwaukie downtown and Marylhurst University, as shown on the attached map.</p>

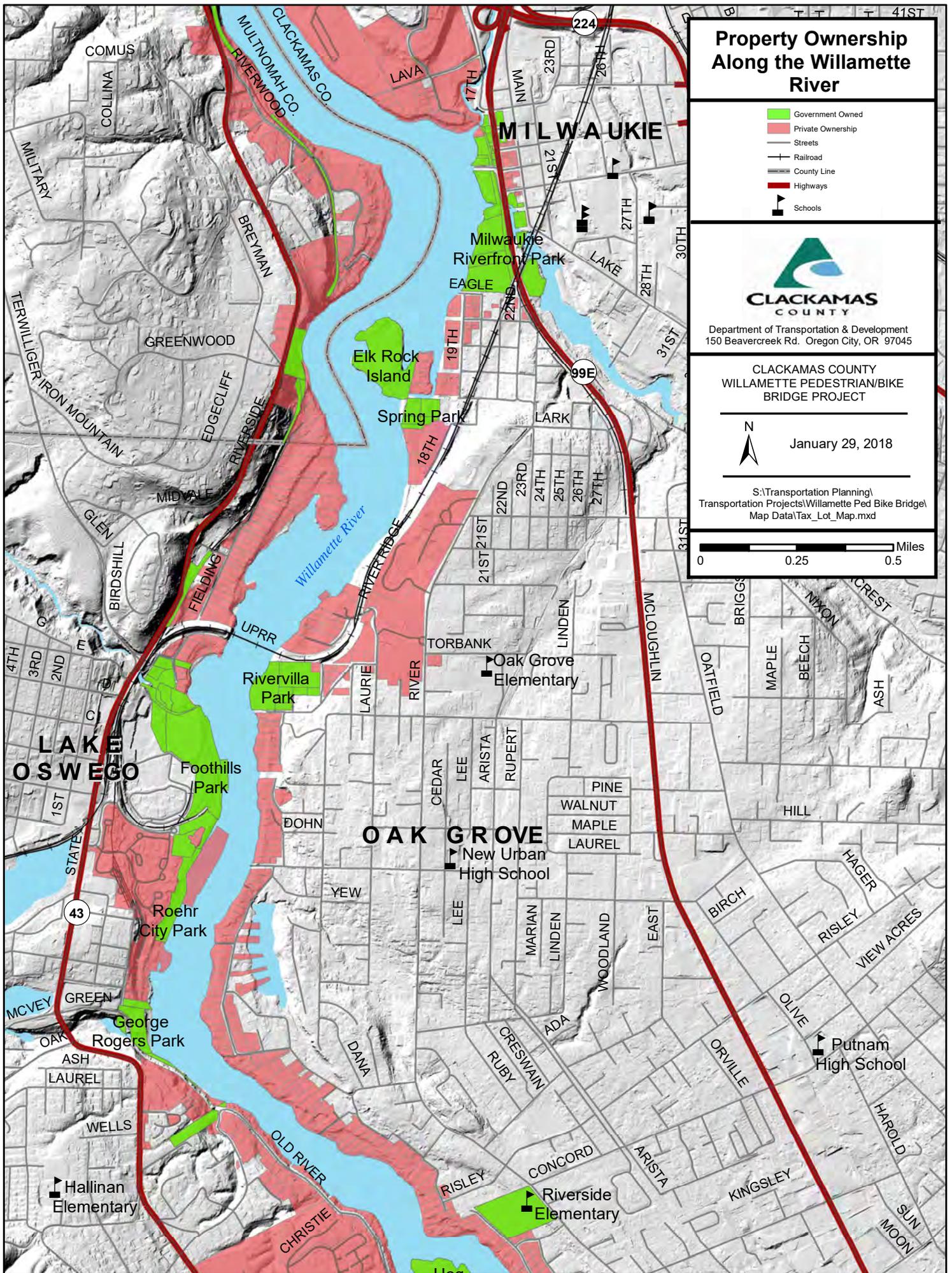
Major Project Scope Elements and Summary Costs		
Provide a bullet list of the main tasks that will achieve the purpose and objectives (Examples provided below)	A cost summary per each major task	ID in-house or consultant driven task
Task #1: Alternatives analysis of possible bridge locations, connection to the bike ped network, with an identification of the preferred bridge location alternatives	\$140,000	Consultant
Task #2: Environmental scoping to identify special studies and analysis that will be necessary.	\$20,000	Consultant
Task #3: Conceptual cost estimate and funding plan for project development, operations and maintenance.	\$50,000	Consultant

Task #4: Interagency coordination with local governments, special districts, and state/federal agencies on roles and responsibilities	\$16,000	Staff & Consultant
Task #5: Intergovernmental Agreement between the partners for project development, operations, and maintenance	\$15,000	Staff and Consultant
Task #6: Conduct public involvement activities including presentations, outreach and other activities to inform the public about the proposed project and secure input.	\$40,000	Staff and Consultant
Task #7: Project management and administrative oversight	\$25,000	Staff
Total Proposed Study Costs:	\$306,000	

Approach And Oversight

Discuss how the project development work will be implemented and how expenditures will be tracked and monitored by the agency. Describe the technical, administrative and budget capacity to complete project development work.

This project development project will primarily be conducted by a consultant under the direction and oversight of the Clackamas County Department of Transportation and Development (DTD). At any particular time DTD has over 20 projects in development and has an extensive staff of project managers, engineers, finance and administrative specialist who are well versed in all aspects of the management of publically funded projects. The DTD has carried out a number of projects using funding from Metro and is knowledgeable about all conditions and requirements. The DTD Principal Transportation Planner will be the project manager under the direction of the Transportation Planning Supervisor. Working with the project manager will be a Project Management Team including the Capital Projects Supervisor, the Administrative Services Manager, the Bike and Pedestrian Coordinator, and the Community Outreach Specialist. This group will ensure that all administrative, legal and professional standards are met and that the project is completely in a timely and responsible fashion.



Property Ownership Along the Willamette River

- Government Owned
- Private Ownership
- Streets
- Railroad
- County Line
- Highways
- ▣ Schools



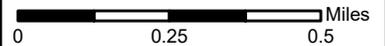
Department of Transportation & Development
150 Beavercreek Rd. Oregon City, OR 97045

CLACKAMAS COUNTY WILLAMETTE PEDESTRIAN/BIKE BRIDGE PROJECT



January 29, 2018

S:\Transportation Planning\
Transportation Projects\Willamette Ped Bike Bridge\
Map Data\Tax_Lot_Map.mxd





DAN JOHNSON
DIRECTOR

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

September 20, 2018

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of 2040 Planning and Development Grant
Intergovernmental Agreement with Metro: Clackamas County
Park Ave Development and Design Standards. Contract No. 935012**

Purpose/ Outcomes	Approval of 2040 Planning and Development Grant Intergovernmental Agreement with Metro: Clackamas County Park Avenue Development and Design Standards. Contract No. 935012
Dollar Amount and Fiscal Impact	The grant award is for \$180,000. The departments of Transportation and Development (DTD), and Business and Community Services (BCS) will contribute a total of \$45,000 of staff time as a part of this project.
Funding Source	The Metro 2040 grants are funded through Construction Excise Taxes. The matching funds will come from the county's General Fund.
Duration	September 2018 – December 2020
Previous Board Action	BCC Policy Session – IGA Approval: September 4, 2018 BCC Business Meeting – Approval to Apply: June 29, 2017 BCC Policy Session – Approval to Apply: June 13, 2017
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build a strong infrastructure
Contact Person	Karen Buehrig, Transportation Planning Supervisor, DTD 503-742-4683
Contract No.	Metro Contract No. 935012

In 2017 Clackamas County, in response to a community request, applied for a Metro 2040 Planning and Development Grant for the Park Avenue Development & Design Standards project for unincorporated Clackamas County lands approximately ½ mile from the Park Avenue Light Rail Station. The project is intended to provide an inclusive and innovative public engagement process, an assessment of neighborhood livability and economic vitality, and ultimately to revise development and design standards on commercial land around the light rail station to support a more walkable, transit-oriented environment.

On October 24, 2017, Clackamas County received notice that it was awarded an \$180,000 - 2040 Planning and Development Grant by Metro for the proposed project. The County will match the grant amount with \$45,000 of in-kind support. We expect the project will take a total of 18 months to complete, including final adoption of development and design standards.

The original request for funding was made in partnership with the McLoughlin Area Plan Implementation Team (MAP-IT) to support the 2017-18 Long-Range Planning Work Program item on working with the community to submit an application to fund a community outreach process to engage property owners about the development and design standards.

Grants such as this one from Metro or ODOT typically involve an intergovernmental agreement (IGA) between Clackamas County and the granting agency. The attached IGA between Clackamas County and Metro has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully request that the Board of County Commissioners approve this Intergovernmental Agreement with Metro for the Park Ave Development and Design Standards project.

ATTACHMENT:

1. 2040 Planning and Development Grant Intergovernmental Agreement with Metro: Clackamas County Park Ave Development and Design Standards. Contract No. 935012

Respectfully submitted,

Karen Buehrig, Transportation Planning Supervisor
Transportation and Development

**2040 PLANNING AND DEVELOPMENT GRANT
INTERGOVERNMENTAL AGREEMENT
Metro – Clackamas County
Park Avenue Development and Design Standards**

This 2040 Planning and Development Grant Intergovernmental Agreement (“Agreement”) is entered into by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland OR, 97232 (“Metro”), and Clackamas County (“County”), through its Department of Transportation and Development, a municipal corporation, located at 150 Beaver Creek Road, Oregon City, OR 97045, collectively referred to as “Parties.”

WHEREAS, Metro has established a Construction Excise Tax (“CET”), Metro Code Chapter 7.04, which imposes an excise tax throughout the Metro regional jurisdiction to fund regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary; and

WHEREAS, the CET is collected by local jurisdictions when issuing building permits, and is remitted to Metro pursuant to Intergovernmental Agreements to Collect and Remit Tax entered into separately between Metro and the local collecting jurisdictions; and

WHEREAS, the County has submitted a 2040 Planning and Development Grant Request (“Grant Request”) for the Park Avenue Development and Design Standards Project (“Project”); and

WHEREAS, Metro has agreed to provide 2040 Planning and Development Grant Funds (“Grant Funds”) to the County for the Project in the amount of \$180,000 subject to the terms and conditions set forth herein, and the parties wish to set forth the funding amounts, timing, procedures and conditions for receiving grant funding from existing CET funds for the Project.

NOW THEREFORE, the Parties hereto agree as follows:

1. Metro Grant Award. Metro shall provide Grant Funds to the County for the Project as described in the Grant Request, attached hereto as Exhibit A and incorporated herein subject to the terms and conditions specified in this Agreement and subject to any specific funding conditions recommended by the Metro Chief Operating Officer and adopted by the Metro Council in Resolution No. 17-4846.
2. Project Management and Coordination. The Parties have appointed the staff identified below to act as their respective Project Managers with the authority and responsibility described in this Agreement:

For the County: Karen Buehrig
 Transportation Planning Supervisor
 Clackamas County Department of Transportation and Development
 150 Beaver Creek Road
 Oregon City, OR 97405
 KarenB@co.clackamas.or.us
 503-742-4683

For Metro: Lisa Miles
 Principal Project Manager
 2040 Planning and Development Grants
 Metro
 600 NE Grand Avenue
 Portland, OR 97232
 Lisa.Miles@oregonmetro.gov
 503-797-1877

In the event the County needs to assign a new Project Manager other than the individual named in the original grant application, the County will present in writing to Metro the qualifications and experience of the proposed new Project Manager. Metro shall have the opportunity to review the qualifications and may reject a proposed Project Manager who Metro deems unqualified.

3. Mutual Obligations of both the County and Metro. The Parties and their respective Project Managers will collaborate to oversee the successful implementation of the Project as follows:

(a) Selection of Consultants, Phase I: The Project Managers will work together to identify consultants best qualified to perform the scope of work for Phase I: Park Avenue Station Area Community Assessment, attached hereto as Exhibit B. One deliverable for Phase I will be proposed revisions, as deemed appropriate, to a consultant scope of work and proposed RFP for Phase II. The proposed RFP will be approved by the Board of County Commissioners prior to the commencement of Phase II.

(b) Selection of Consultants, Phase II: Once approved by the Board of County Commissioners, the RFP for Phase II consulting services will be released. The Project Managers and any additional reviewers selected by the Parties and approved by the Board of County Commissioners will jointly review proposals from consultants and select a mutually agreeable consultant team to perform the work required to successfully complete the Project.

(c) Preliminary Schedule of Milestones. The Parties have agreed to a preliminary schedule of milestones for completion of Phase I of the Project, which are attached hereto as Exhibit C. This preliminary schedule of milestones will be incorporated into the contract between the County and the consultants hired for Phase I of the Project.

(d) Revised Schedule of Milestones. After Phase I has been completed and the Project Managers have selected a consultant team as described in subsection 3(b), the Parties to this Agreement expressly delegate authority to the Project Managers to prepare a revised schedule of milestones that will provide more detailed performance timelines for Phase II of the Project, including specific consultant and/or County deliverables for each milestone, and establish the amount of grant funds to be disbursed by Metro upon satisfactory completion of each milestone. The Parties agree that the revised schedule of milestones agreed upon by the Project Managers will replace the preliminary schedule attached hereto, and will become the final and binding Exhibit C to this Agreement (“Revised Exhibit C”), unless and until it is later amended as allowed under paragraph 9 of this Agreement. The revised schedule of milestones will be incorporated into the contract between the County and the consultants hired for Phase II of the Project.

(e) Project Committee(s). The consultant team hired for Phase I of the project will develop a recommendation for the governance structure and any advisory committees to be formed in Phase II of the project. Working with the consultant team, the Project Managers will help to define the recommended role of the project steering/technical/advisory committee(s), if any, and the composition of such committees or other bodies. Metro’s Project Manager will participate as a member of any such committee(s). The Board of County Commissioners shall review and approve the proposed committee structure, membership, and scope of authority, which will then be integrated into the Scope of Work and RFP for Phase II.

4. County Responsibilities. The County shall perform the Project described in the Grant Request, attached as Exhibit A, and as specified in the milestones set forth in Revised Exhibit C, subject to the terms and conditions specified in this Agreement and subject to any funding conditions recommended by the Metro Chief Operating Officer and adopted by the Metro Council in Resolution No. 17-4846. The County shall obtain all applicable permits and licenses from local, state or federal agencies or governing bodies related to the Project.

(a) Use of Grant Funds. The County shall use the Grant Funds it receives under this Agreement only for the purposes specified in the Grant Request and to achieve the deliverables and/or milestones as set forth in this Agreement. In the event that unforeseen conditions require adjustments to the Project scope, approach or schedule, the County shall obtain Metro’s prior written approval before implementing any revisions to the Project.

(b) Consultant Contract(s).

1) After the Project Managers have agreed on the scope of work for Phase I, and agreed on a consultant team to perform the scope of work, the County shall enter into a contract(s) with the selected consultant team to complete the initial milestones and deliverables described in Exhibit C. The contract(s) entered into by the County shall reference this Agreement, including the schedule of milestones set forth in Exhibit C.

2) After the Project Managers, and others as determined, have selected the consultant team for Phase II of the Project, and completed the Revised Exhibit C schedule of milestones as described above in section 3, the County shall enter into a contract(s) with the selected consultant team to complete the remaining Project milestones and deliverables described in Revised Exhibit C. The contract(s) entered into by the County shall reference this Agreement, including the schedule of milestones set forth in Revised Exhibit C.

(c) Submittal of Grant Deliverables. Within 30 days after completing each milestone for the Project, as described in Revised Exhibit C, the County shall submit to Metro all required deliverables for the milestone, accompanied by an invoice describing in detail its expenditures as needed to satisfy fiscal requirements. Deliverables must be submitted to Metro separately and sequentially; the County shall not submit additional deliverables and invoices to Metro for later milestones until Metro has reviewed and approved all prior deliverables under paragraph 5 of this Agreement.

5. Metro Responsibilities. Metro's funding commitment set forth in this Agreement shall be fulfilled solely through CET funds; no other funds or revenues of Metro shall be used to satisfy or pay any CET grant commitments. Metro shall facilitate successful implementation of the Project and administration of Grant Funds as follows:

(a) Review and Approval of Grant Deliverables. Within 15 days after receiving the County's submittal of deliverables as set forth in Exhibit C, Metro's Project Manager shall review the deliverables and either approve the submittal or reply with comments and/or requests for further documentation or revisions that may be necessary. Metro shall have sole discretion in determining whether the deliverables submitted are satisfactory in meeting the grant requirements. Metro's approval shall not be unreasonably withheld and shall be made comparing the County's submittal to the Project as described in the Grant Request set forth in Exhibit A and the deliverables set forth in Revised Exhibit C.

(a) Payment Procedures. Upon Metro Project Manager's approval of deliverables, invoices and supporting documents, subject to the terms and conditions in this Agreement, Metro shall reimburse the County for its eligible expenditures for the applicable deliverable as set forth in Revised Exhibit C within 30 days.

6. Project Records. The County shall maintain all records and documentation relating to the expenditure of Grant Funds disbursed by Metro under this Agreement, as well as records and documentation relating to the financial match being provided by the County for the Project. Records and documents described in this section shall be retained by the County for three years from the date of completion of the project, expiration of the Agreement or otherwise required under applicable law, whichever is later. The County shall provide Metro with such information and documentation as Metro requires for implementation of the grant process. The County shall establish and maintain books, records, documents and other evidence in accordance with generally accepted accounting principles, in sufficient detail to permit Metro or its auditor to verify how the Grant Funds were expended, including records demonstrating how County matching funds were expended. Metro and its auditor shall have access to the books, documents, papers and records of the County that are directly related to this Agreement, the Grant Funds provided hereunder or the Project for the purpose of making audits and examinations.

7. Audits, Inspections and Retention of Records. Metro and its representatives shall have full access to and the right to examine, during normal business hours and as often as they deem necessary, all County records with respect to all matters covered by this Agreement. The representatives shall be permitted to audit, examine and

make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls and other matters covered by this Agreement. All documents, papers, time sheets, accounting records and other materials pertaining to costs incurred in connection with the Project shall be retained by the County and all of their contractors for three years from the date of completion of the Project, or expiration of the Agreement, whichever is later, to facilitate any audits or inspection.

8. Term. Unless otherwise terminated under paragraph 9, this Agreement shall be effective on the last date it is executed by the parties below, and shall be in effect until all milestones and deliverables have been completed, all required documentation has been delivered, and all payments have been made as set forth in Exhibit C.

9. Termination. Metro may terminate this Agreement and cancel any remaining Grant Fund payments upon a finding by the Metro Chief Operating Officer that the County has abandoned its work on the Project or is otherwise not satisfying its obligations under this Agreement regarding the requirements of the grant.

10. Amendment. This Agreement may be amended only by mutual written agreement of the Parties.

11. Other Agreements. This Agreement does not affect or alter any other agreements between Metro and the County.

12. Waiver. The Parties hereby waive and release one another for and from any and all claims, liabilities or damages of any kind relating to this Agreement or the Grant Funds.

13. Authority. County and Metro each warrant and represent that each has the full power and authority to enter into and perform this Agreement in accordance with its terms; that all requisite action has been taken by the County and Metro to authorize the execution of this Agreement; and that the persons signing this Agreement have full power and authority to sign for the County and Metro, respectively.

Metro

Clackamas County

By: _____
Martha Bennett

By: _____
Jim Bernard

Title: Metro Chief Operating Officer

Title: Chair

Date: _____

Date: _____

Approved as to Form:

Approved as to Form:

By: _____
Nathan Sykes

By: _____

Title: Acting Metro Attorney

Title: County Attorney

Date: _____

Date: _____

- Exhibit A – County’s Grant Request
- Exhibit B – Scope of Work
- Exhibit C – Schedule of Milestones

Metro Contract 935012-Exhibit A
County's Grant Request

Project narrative

Project Name: Park Avenue Development and Design Standards

Note to applicants: All questions and headings are to remain in their current locations in this document. In the space provided after each question, you may use text, bullet lists, tables or other formatting as desired or appropriate to improve the clarity and legibility of your response. Please be succinct; is not necessary to use all of the space provided. Please use 11 point black text, and limit your response to the space allotted for each question. Refer to the evaluation criteria on page 4 of the Handbook, also in ZoomGrants in the "Library" tab.

Clear development outcomes

1. Clearly describe the proposed project and the specific goals to help facilitate development in your community. (Limit your response to page 1.)

The Park Avenue Development and Design Standards Project (the project) will employ an inclusive and extensive community engagement process to create development and design standards for the Park Avenue Station area. These standards will be crafted to implement the Community Values and Guiding Principles (including those related to economic vitality, inclusiveness, sustainability and design) of the McLoughlin Area Plan, developed and approved by the community from 2008-12, and *The Five Components of the McLoughlin Area Plan*, approved by the Clackamas County Board of Commissioners in 2015. The project will also include an assessment of neighborhood livability and economic diversity in the residential areas surrounding the Park Avenue Station. The intent is for the final outcomes of the project to embody the essence of equitable development and to be applicable as a flexible template for other areas along McLoughlin, as well as other auto-dominated, suburban commercial areas in the region.

The greater Oak Grove/Jennings Lodge area has a high percentage of poverty that is linked to a lack of living-wage jobs and affordable housing. The new development and design standards will allow and encourage an increase in living-wage work opportunities and more affordable housing, and accommodate a greater variety of housing options as well as essential services, open space and access to other amenities. Private sector developers, investors, property owners and community members will work to identify impediments in the current development process, and zoning and development ordinance, suggest actual or hypothetical project sites, test the effectiveness of the proposed development and design standards, and explore implementation strategies.

The intent of the new development and design standards is to encourage and maintain housing and economic diversity along the McLoughlin transit corridor over the next 20 years, and as long as the strategies employed prove to remain effective. Redevelopment often impacts existing affordable housing, half-way houses, weekly rental motels, manufactured home parks, small businesses and other existing commercial uses. The new design and development standards are intended to be ahead of the cycle of gentrification and displacement, and help ensure that clearly identified targets based on community values can be met in spite of market pressure. This is possible through a thoughtful policy planning process, strategies to refine that policy as development occurs and market forces are observed, research, identification of best practices and use of metrics for evaluation.

Employing an inclusive and comprehensive public engagement process throughout the creation of the development and design standards is intended to increase support for the adoption and implementation of feasible, implementable ZDOs and other policy changes to maximize community objectives and attract desired development while maintaining the quality and character of surrounding residential neighborhoods.

Metro Contract 935012-Exhibit A County's Grant Request

2. Provide a high-level description of the scope of work and general timeframe to complete the project. What are the project elements, the deliverables you envision, and the outcomes you seek to achieve? (Limit your response to page 2.)

The project will be led by a consultant team, with support from County staff, community members and stakeholders. The consultant will be expected to work closely with the community to implement the community engagement plan, identify existing conditions, draft and refine development and design standards, test the standards, and produce ZDO amendments and related materials to implement the standards.

Project Element 1: *Project Management*

- Deliverable 1.1 IGA between Metro and Clackamas County
- Deliverable 1.2 Finalized scope of work, schedule and budget with consultant team
- Deliverable 1.3 Grant reporting throughout the project

Outcome: Smoothly-managed project that delivers results within the expected timeframe and budget

Project Element 2: *Community Engagement*

- Deliverable 2.1 Inclusive, comprehensive community engagement plan involving property owners, business owners, community partners, developers, investors, residents and others.
- Deliverable 2.2 Technical and public advisory groups
- Deliverable 2.3 Inclusive and comprehensive community engagement report with metrics

Outcome: Inclusive, comprehensive, ongoing community engagement, resulting in knowledgeable, empowered stakeholders, and development and design standards responsive to community needs.

Project Element 3: *Existing Conditions, Inventory and Data Compilation*

- Deliverable 3.1 Memo 1: Summary report of existing conditions and market analysis, including usable graphics, that includes existing plans, existing regulatory framework, land inventory, demographics, the natural and built environment, and other area projects.
- Deliverable 3.2 Memo 2: Neighborhood livability and economic diversity assessment that considers potential impacts of new development on surrounding neighborhoods and affordability.
- Deliverable 3.3 Meeting facilitation and summaries implementing public involvement plan

Outcome: Well-substantiated information about the commercial area and surrounding neighborhood.

Project Element 4: *Draft and Refine Development and Design Standards*

- Deliverable 4.1 Memo 3: Review of best practices in mixed-use zones, with projects, tools and strategies to maximize transit-supportive development, long-term affordability, sustainability, local economy, living-wage work, community health and collaboration
- Deliverable 4.2 Draft development and design standards
- Deliverable 4.3 Memo 4: Summary of draft standards test on actual/hypothetical sites, with illustrated model outcomes, effectiveness evaluation, developer and community buy-in
- Deliverable 4.4 Meeting facilitation and summaries implementing public involvement plan
- Deliverable 4.5 Refined development and design standards

Outcome: Development and design standards that achieve community goals; reflect best practices; developer, property owner and public input, and incorporation of lessons learned from tests on actual or hypothetical sites.

Project Element 5: *Implementation Strategies*

- Deliverable 5.1 Memo 5: Implementation framework plan, with metrics on community goals, market economics, tool box to use standards and template for other locations on McLoughlin
- Deliverable 5.2 Community engagement plan with a community-centric feedback cycle.
- Deliverable 5.3 Adoption-ready materials, including ZDO amendments that implement the development and design standards, for the Planning Commission and County Commission.

Outcome: Clear communication and understandable materials to facilitate adoption and implementation of the new design and development standards.

Metro Contract 935012-Exhibit A County's Grant Request

3. Describe the measures would you use to evaluate the project's success. (Limit your response to top half of page 3)

Measurements of success will be applied to evaluate the proposed development and design standards, community engagement plan and implementation framework plan. A primary measure of success will be the acceptance and active use of the new ZDO and related policies by the development community. Project success will also be measured by adoption by the Board of Commissioners of recommended development and design standards that align with community values and implement a mixed-use, transit supportive environment along McLoughlin Boulevard near the Park Ave Station.

In order to evaluate success, specific evaluation metrics will be identified in a comprehensive scorecard intended to allow all stakeholders to see and understand the outcomes of the project relative to the original goals. A feedback framework will be established to facilitate adaptive adjustments over time to ensure long-term success, community satisfaction and healthy economic activity.

Success of the community engagement plan will be measured by the level of participation of the community and stakeholders, and by their knowledge, understanding and support of the development and design standards. It will be important to make sure that people engaged in the project reflect current and projected area demographics, including property and business owners, and developers.

The project includes an implementation framework plan with metrics on how well the development and design standards align with community values outlined in the McLoughlin Area Plan and *The Five Components of the McLoughlin Area Plan*. The implementation framework plan will include ways to measure the success of the adopted standards, and understand how they affect neighborhood livability.

Advances and complements regional goals and policies

4. Describe how this project will help to facilitate development while advancing established regional development goals and outcomes. Consider how the project will help to implement the 2040 Growth Concept, its alignment with the Urban Growth Management Functional Plan, and how it will achieve each of the Six Desired Outcomes stated in the Regional Framework Plan. (Limit your response to bottom half of page 3 and top half of page 4.)

The focus of this project is to facilitate development that implements regional goals and outcomes, and reflects community goals and values. This area along McLoughlin Boulevard is primarily zoned C-3 (General Commercial). This zone discourages mixed-use development near transit stations and other appropriate locations. Other districts along McLoughlin include medium residential (MR-1), medium high density (MR-2) and high density residential (HDR), in which mixed-use is either prohibited or not a primary use.

By focusing on development and design standards around the light rail station, the project implements the 2040 Growth Concept of promoting a mix of uses, and walkable, livable communities in areas with good access to transit. The project will provide tools to allow for the type of development that facilitates the Regional Framework Plan. The project goals align with the outcomes as follows:

- A. *People live, work and play in vibrant communities where their everyday needs are easily accessible.*
 - 1) Enable a significant new supply of mixed-income housing to attract living-wage jobs and a mix of businesses to create a vibrant, activity-filled station community.
 - 2) Design standards to support gathering places, green buildings, parks and restored open spaces.
 - 3) Support access to light rail and buses, and trails to access amenities and services.

- B. *Current and future residents benefit from the region's sustained economic competitiveness and prosperity.*

The project is designed to create development and design standards that:

Metro Contract 935012-Exhibit A County's Grant Request

- 1) Promote development that will attract and support local businesses and living-wage jobs
 - 2) Complement regional economic trends with locally-focused businesses
 - 3) Promote high quality buildings that address housing and employment needs
 - 4) Promote active transportation and transit access to the metro region
- C. *People have safe and reliable transportation choices that enhance their quality of life.*
- 1) As a station community at the north end of a corridor, the area can leverage current transit and active transportation options (bus and light rail, the Trolley Trail) and support expansion.
 - 2) Improved local street, trail and commercial access safety supported by new design standards.
 - 3) Support safe, comfortable accommodations and prioritize multi-modal travel.
- D. *The region is a leader in minimizing contributions to global warming.*
- 1) Reduce reliance on motorized vehicles by expanding infrastructure, promoting optional modes.
 - 2) Support compact, green development with less intensive infrastructure and renewable resources.
 - 3) Support the local and regional economy to reduce transportation costs.
- E. *Current and future generations enjoy clean air, clean water and healthy ecosystems.*
- 1) Use existing watershed and habitat as focal points to increase care for the environment.
 - 2) Reduce pollutants by using ecosystem services for stormwater treatment, infiltration and reuse.
 - 3) Promote mixed-income and market-rate housing near transit and active transportation to support safe and convenient access, and reduce pollution associated with motor vehicles.
 - 4) Encourage businesses to close resource loops; use local resource flows to eliminate waste.
- F. *The benefits and burdens of growth and change are distributed equitably.*
- 1) Encourage redevelopment of underutilized commercial land to minimize displacement and other negative impacts in existing residential neighborhoods.
 - 2) Design policies to ensure retention of population diversity and address the needs of disadvantaged communities by providing living-wage jobs, affordable housing, etc.
 - 3) Higher property values will support public services and infrastructure.

Aligns with local goals/maximizes community assets

5. How will the project create opportunities to accommodate your jurisdiction's expected population and employment growth? (Limit your response to the bottom half of page 4.)

This project will use many methods to promote uses that help accommodate the population and employment growth that is expected in urban unincorporated Clackamas County, including the following:

- A. Create design and development standards to enable opportunities to repurpose the underdeveloped, underutilized commercial corridor, which has excellent transit service and great potential for increased mixed-use residential and employment use.
- B. Optimize parking requirements by leveraging existing transit infrastructure, to ensure properties can use land for employment, housing and habitat.
- C. Facilitate outreach and research to identify market expectations and opportunities, and enable partnerships with developers, investors, property owners and local businesses to optimize investments.
- D. Explore opportunities to expand housing choices and employment along the corridor while ensuring long-term affordability.
- E. Use the project's development and design standards as a template for other locations along the corridor, to provide further opportunities to accommodate population and employment growth.

Metro Contract 935012-Exhibit A County's Grant Request

6. Describe why you propose to take on this particular project at this time. How does the project relate to previous actions, goals, policies or strategies already identified or implemented by your jurisdiction or other project partners? (Limit your response to top half of page 5.)

This project is needed now to capture momentum created by past and current projects, as well as regional development dynamics. In September 2015, light rail came to Park Avenue. By now the community has experienced the enhanced regional access and impact of a light rail station, and can better appreciate the value of moving forward to guide development and growth. Data from past projects that studied area development opportunities—including the Park Avenue Station Area Plan and McLoughlin Area Plan (MAP) Phases I and II – can inform this project.

This project will build upon the success of past projects – the Metro Nature in Neighborhoods grant for the Park Avenue Station and the regionally-significant Trolley Trail. This project is also intended to help the County accomplish the five priorities in its *Performance Clackamas* strategic plan: 1) Build public trust through good government, 2) Grow a vibrant economy, 3) Build a strong infrastructure, 4) Ensure safe, healthy and secure communities and 5) Honor, utilize, promote and invest in our natural resources.

There are four active Metro-funded projects related to the McLoughlin corridor: 1) North Milwaukie Industrial Area -- a framework plan and implementation strategy to guide future redevelopment; 2) Gladstone Downtown Revitalization Plan -- a more cohesive main street that re-establishes the corridor as the city center; 3) Willamette Falls Legacy Project -- reconnect people to the Falls; and 4) the Metro Coalition McLoughlin Corridor Brownfield Project -- to assess brownfield sites to lay the foundation for remediation and redevelopment along McLoughlin Boulevard.

Finally, the McLoughlin Corridor is the gateway to Clackamas County. Now is the time to take advantage of the accessibility offered by light rail to provide jobs and housing in this area. The county has a competitive market and can offer real estate opportunities at affordable rates not available in Portland. Having development-ready lands along McLoughlin is an advantage this project can leverage.

7. How would the project leverage aspects of the existing community fabric such as key development sites or urban form? How would it complement existing assets, facilities, or amenities such as historic districts, employment centers, natural features, parks or transit? (Limit your response to bottom half of page 5.)

The project is planned to complement the commercial and residential areas with development and design standards that promote community goals, reinforce community identity and create a gateway to Oak Lodge and the greater McLoughlin area.

With significant light rail investment at Park Avenue, new development and design standards will be crafted to spur development of housing, employment, community services, retail and other uses. The adjacent Trolley Trail connection to regional active transportation infrastructure -- including along SE 17th Avenue and the Springwater Corridor – and the projected benefits of applying a tested template to nodes along the historic McLoughlin/99E corridor will further leverage many area assets.

These community assets also set a standard for abundant habitat and connected, natural open space to serve as an example for the creation and implementation of future development and design standards. They are models of success for integrating ecosystem services, educational elements and artistic identity that reflect community values.

Protecting surrounding neighborhoods from negative impacts of increased density while providing enhanced access to services, local business and other features will leverage the significant assets of the neighborhoods and retirement communities surrounding the corridor. Encouraging and enhancing habitat restoration, green infrastructure and opportunities to access nature and open space will support the natural environment.

Metro Contract 935012-Exhibit A
County's Grant Request

Team roles and capacity

8. Complete the table to clearly describe the roles and responsibilities of the applicant and each of the key project partners to accomplish the goals of the project. Also include consultant expertise needed. (Add or adjust rows as needed but please limit table to page 6.)

Jurisdiction or partner (include lead staff names)	Project role and responsibilities
Clackamas County – Karen Buehrig, Lorraine Gonzales	Grant recipient and administrator; governing body of area in question; involved with planning, outreach, grant development and writing, development consulting
McLoughlin Area Plan Implementation Team (MAP- IT) – Terry John Gibson	Coordination, outreach, grant support, grant development and writing, communications, research, evaluation
Community Organizations (not official partners, will play a key role in project development, implementation and evaluation)	
Community Organization	Role
Clackamas Community Planning Organization (CPO)	Outreach, communications, evaluation, neighborhood assessment
Jennings Lodge CPO	Outreach, communications, evaluation, neighborhood assessment
McLoughlin Area Business Alliance (MABA)	Outreach and consulting, identifying hypothetical and/or sample sites and testing draft standards; evaluation
Oak Grove Community Council (CPO)	Outreach, communications, evaluation, neighborhood assessment
Oak Lodge Legacy	Grant development and writing, outreach, research, evaluation
Urban Green	Grant development, outreach, research

Consultant team	Expertise
Facilitator/Project manager	Group facilitation, management, collaboration, leadership, evaluation
Outreach coordinator (with local representation)	Community engagement, facilitation, leadership
Research	Land use, community development, zoning, market economics, etc.
Design specialist (with local representation)	Community development, land use, commercial development, modeling, metrics
Writer of design and development standards	Land use, zoning, development, design, writing, collaboration

Metro Contract 935012-Exhibit A County's Grant Request

9. Describe the skills, experience and availability of the lead staff person who will manage all aspects of the grant project and oversee the project team's collaboration and consultant work. (Limit your response to top half of page 7.)

Clackamas County staff Karen Buehrig and Lorraine Gonzales will be the team that manages all aspects of the grant project and oversees the project management team's collaboration and consultant work.

Karen Buehrig, Clackamas County Transportation Planning Supervisor, has more than 20 years of experience in the county with both land use and transportation planning projects. She has directly managed or participated as the managing supervisor for the update to the county's Transportation System Plan, TGM-funded projects that completed pedestrian and bicycle plans for the Clackamas Regional Center and the Villages at Mt. Hood, the CET-funded Clackamas Connections and several other projects. Karen will be the managing supervisor.

Lorraine Gonzales has more than 20 years of land use and project manager experience. She was key staff on many projects, including the McLoughlin Corridor Land Use and Transportation Study, Sunnyside Road Master Plan, Green Corridors, Sunrise Corridor Project, I-205 to Rock Creek Junction, and the Fuller Road Station Area and Park Avenue Station Area projects. She is familiar with project coordination and work program development with local, regional and state agencies, and has been on many long-range planning technical advisory teams for jurisdictions and agencies in Clackamas County and Metro. Under Karen's supervision, Lorraine will be responsible for overall grant reporting and management, as well as overseeing consultant work and project team collaboration.

Likelihood of implementation

10. What governing bodies or private parties will have to act to ultimately implement the project, and what is the extent of their authority to make policy or commit investments? Describe the roles the key project partners will have to play over time in order to fully and successfully implement the project in order to realize the envisioned development benefits in your community. (Limit your response to bottom half of page 7.)

The project focus is the implementation of development and design standards in alignment with a community-supported vision for economically vibrant, inclusive, equitable and sustainable development that complements opportunities created by light rail service to Park Avenue. The vision carried forward in the standards will reflect the McLoughlin Area Plan, Phases I and II, adopted by the community to enhance and revitalize the McLoughlin Boulevard area, as well as *The Five Components of the McLoughlin Area Plan*. These documents were funded and recognized by Clackamas County.

A critical step will be adoption of the proposed standards by the Board of Commissioners. That is made more likely by the board-adopted strategic goals delineated in *Performance Clackamas*, detailed in the answer to question #6. Once adopted, the standards, designed to streamline the development process, will be implemented as individual property and business owners develop their property.

A comprehensive and inclusive community engagement process, like the one planned, will be essential to successful adoption and implementation of the standards by the county. By testing draft standards on actual and/or hypothetical sites, the impact of the standards on properties are intended to be clear and understandable. In addition, the implementation framework plan will include a tool box, handbook and/or other materials to plainly outline the application of the standards.

Another aspect of the project will be the creation of metrics to evaluate the effectiveness of meeting community goals as McLoughlin Boulevard develops. If application of the standards does not result in the expected outcomes, they can be refined to better meet the needs of the developers and the community.

Metro Contract 935012-Exhibit A County's Grant Request

11. Identify and describe the potential opportunities and threats that could affect the successful implementation of this project. (Limit your response to top half of page 8.)

Extensive community engagement is planned to involve business, development and resident perspectives. Innovative efforts to hear from and address voices that are typically underrepresented will be applied. Addressing these various perspectives is intended to help ensure that the development and design standards, and implementation strategies will address opportunities and threats.

Opportunities:

- Strong market demand for diverse and affordable housing, and offices, small makerspaces and employment land, convenient to transit, trails, open space, services, employees and amenities.
- New standards to incentivize and attract equitable, sustainable growth, housing, natural features and living-wage jobs aligned with regional goals and demands
- Convenient access to central city and the metro region
- Create development and design standards, and implementation strategies that address current constraints of the Zoning and Development Ordinance, and help streamline and facilitate development.
- Address foreseeable impacts of development on neighborhood livability.

Threats:

- Specific or more detailed development and design standards could be seen as a threat by some developers, investors and property owners
- Competing market demand by current uses including auto dealerships and storage facilities
- Potential lack of economic alignment for developers on McLoughlin despite new standards
- Limited funds for strategic public infrastructure and amenities to spur development
- Lack of public participation due to factors beyond the control of the project
- Concerns about possible negative impacts due to issues related to increased development
- Inability to consolidate existing parcels for substantial development

Public involvement

12. What community members or stakeholders will be most affected by the implementation of the project's development outcomes? (Limit your response to bottom half of page 8.)

- Employers and business startups seeking greater access, exposure, culture and employees
- Businesses and property owners may welcome new standards that support potential for growth and higher level uses that will bring increased property value and rental income potential.
- Residents displaced by rising housing prices throughout the metro region looking for an affordable place to live may find an affordable option in the project area.
- Residents surrounding corridor development may benefit from improved standards that preserve character and enhance livability while protecting them from displacement.
- People in marginalized communities may gain through increased access to the benefits of development.
- Business owners and developers along McLoughlin Boulevard and adjacent to the light rail station that would benefit from a streamlined and flexible development process.

Metro Contract 935012-Exhibit A County's Grant Request

13. Discuss how the public (including neighbors to the project, businesses, property owners and other key stakeholders) and historically marginalized communities (including low-income and minority populations) will be involved in the project. Please be specific about the practices or methods you intend to use. (Limit your response to top half of page 9.)

The community has an economically diverse population, and is a refuge of relative affordability and livability with easy access to regional assets and benefits. This community will continue to draw marginalized people from other communities as it strives to become an even more livable, diverse place that bolsters health and sustainability. The project will include the study and implementation of strategies with the best potential to maintain mixed-income diversity and affordable access, and outreach to all communities for input and response. While proven data in this area is scarce, many strategies could be implemented in various combinations to achieve this goal.

A thoughtful, inclusive, innovative community engagement process will be crafted to ensure that parties that traditionally do not engage or have the capacity or awareness to participate, are heard and involved, as they choose to be, and strive to address all age, gender, culture and economic levels. The process will include focus groups of property owners, business owners, developers and investors to provide perspective and help define the tools necessary to stimulate economic growth and development of housing options in the project area.

McLoughlin area residents have joined together to enact change in their community for many years, and have played a pivotal role in development of this 2040 Metro Community Planning Development Grant application submittal. The community worked together to create the vision; now they will work together to implement it. Working with the consultant team, the community will develop a comprehensive, inclusive community engagement process to allow the vision to become reality.

14. Describe how public input will be used to strengthen the project outcomes and increase likelihood of implementation. (Limit your response to bottom half of page 9.)

As described above, thoughtful, inclusive and innovative community engagement methods guided by professionals will be used with the intent of providing two-way communication opportunities and a community-centric feedback cycle for and with all who wish to participate. Stakeholders will also be encouraged to be involved in development of the community engagement process, including recommending how to involve all stakeholders in creating, responding to and implementing development and design standards to meet and build upon the community's vision, values and guiding principles as described in MAP 1, MAP 2 and *The Five Components of the McLoughlin Area Plan*.

While the project will seek to involve as many members of the public and stakeholders as possible, there is also an intent to focus on quality and depth of public engagement. For example, carefully-selected focus groups of stakeholders who could be impacted by the new standards will be used to contribute ideas and suggestions on creation of the development and design standards, and the implementation strategies. Focus group input will also be one source of insights on current development constraints, and will be used to help refine existing language or develop new language to promote diverse business, housing and mixed-use options along the McLoughlin Corridor.

Input from area residents will be used to help define neighborhood opportunities and constraints as a result of new development, and contribute toward addressing housing needs, neighborhood connections, and amenities they wish to have along the McLoughlin Corridor to serve their neighborhoods.

Public and technical advisory groups will be asked to review and provide input on the process and deliverables from each phase to ensure the final product embodies the project's goals, and reflects community priorities.

Metro Contract 935012-Exhibit A
County's Grant Request

Jurisdiction track record

15. Describe any similar planning and development projects (CET/CPDG or other) that have been implemented in your jurisdiction in the last 5 years and how that experience will be applied to this project. How successful have these projects been in delivering the proposed outcomes? (Limit your response to top half of page 10.)

Nature in Neighborhoods Grant – This Park Avenue project will build on work completed five years ago with funding received by the community, partnering with TriMet, from a 2010 Metro Nature in Neighborhoods grant. The grant funded a series of community meetings and design charrettes to visualize and design the Park Avenue station complex, resulting in the creation of a community forest with multiple ecosystems surrounding the station complex, in a previously degraded area with mostly hardscape and industrial buildings. The purpose of the NIN grant was to help the Park Avenue light rail, bike and auto transportation hub serve as the catalyst for the regeneration of McLoughlin Boulevard.

McLoughlin Area Plan -- Since 2008 the community has worked through and completed extensive planning efforts that produced the McLoughlin Area Plan (MAP) Phase I and II with the community's vision, values and guiding principles, and established a county-recognized committee – the McLoughlin Area Plan Implementation Team (MAP-IT)—in 2012 to help the vision, values and guiding principles become a reality. This project is a significant step forward in that effort.

16. What project management lessons learned or best practices will be applied to this project? (Limit your response to bottom half of page 10.)

- Robust commitment toward public engagement, and a commitment to honestly and transparently share and respond to that engagement, is crucial throughout the life of the project. Public outreach and use of innovative methods will represent a global voice of both those that typically engage in the public process and those that are typically unrepresented.
- Work with the public and technical groups will contribute to a more inclusive process and address up-front constraints encountered by developers, stakeholders and technical groups.
- It is essential to work closely with Metro on the front end in development of the scope of work in order to be sure to meet and exceed Metro's expectations.
- There is great value to the project of more consistent engagement from Metro with the project team throughout the life of the project.
- Identify a single point of contact for grant management and responsibility of deliverables and be clear that all requests, deliverables, etc. to Metro will go through that point of contact.

Metro Contract 935012-Exhibit A County's Grant Request

17. If implementation of any prior CET/CPDG grant projects has not been successfully completed, please describe why. If your organization has never received a CET or CPDG grant, please state “not applicable.” (Limit your response to top half of page 11.)

The county has received past CET and CPDG grants, and they have been successfully completed.

Replicable best practices

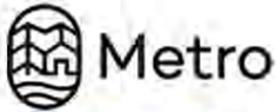
18. Consideration will be given to applications that demonstrate best practices that can be easily replicated elsewhere. Discuss how lessons learned from the project could be applied to other projects in your community or in other parts of the region. (Limit your response to bottom half of page 11.)

The public engagement processes, and creation and implementation of development and design standards will provide a flexible template that can be applied individually to previously-identified and possible new nodes along the McLoughlin Corridor. Such future phases are likely to include more in-depth neighborhood livability and economic diversity assessments to further enhance the community's understanding of what actions will be most effective to preserve and maintain a robust and high-quality stock of affordable housing options that address the full spectrum of needs across income levels, household sizes and stages of life. Those studies will also include exploration of policies to protect and enhance the livable character of existing single-family neighborhoods.

In addition, this project could serve as a model for what is indeed a regional, statewide and national problem, e.g., the challenge of post-war, auto-dominated suburban commercial strips. This project has the potential of demonstrating how communities and jurisdictions can work together to respond to this challenge.

7/5/2017

2040 Planning and Development Grants



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Metro
Planning and Development
2040 Planning and Development Grants

Clackamas County - DTD
Park Avenue Development and Design Standards

Requested Amount

\$ 180,000.00

Project ranking: Rank this application by stating "This application is ranked _ of _ application(s) submitted by this jurisdiction."

This application is ranked 2 of 2 applications submitted by Clackamas County

Metro has targeted 50% of grant funds for qualified projects within the urban growth boundary that have a primary emphasis on equitable development, either by serving historically marginalized populations or by providing equitable housing.

- This project has a primary emphasis on equitable development
- Not applicable

Provide a short summary describing the project, anticipated work to be completed and desired outcomes.

The Park Avenue Development and Design Standards Project (the project) will employ an inclusive and extensive community engagement process to create development and design standards for the Park Avenue Station area. These standards will be crafted to implement the Community Values and Guiding Principles (including those related to economic vitality, inclusiveness, sustainability and design) of the McLoughlin Area Plan, developed and approved by the community from 2008-12, and The Five Components of the McLoughlin Area Plan, approved by the Clackamas County Board of Commissioners in 2015. The project will also include an assessment of neighborhood livability and economic diversity in the residential areas surrounding the Park Avenue Station. The intent is for the final outcomes of the project to embody the essence of equitable development and to be applicable as a flexible template for other areas along McLoughlin, as well as other auto-dominated, suburban commercial areas in the region.

What is the location and/or program reach of the project? Provide a brief description.

The project will focus on the area from the Park Ave Light Rail Station on the north (the intersection of Park Ave and McLoughlin Blvd) to Courtney Ave to the south. It will include the commercial areas directly adjacent to McLoughlin in this area, as well as the surrounding neighborhoods within a 1/2 mile buffer. The Project Area map in the Uploads section displays this area. In addition, we have included a map of the entire McLoughlin Corridor that shows the area where outcomes of this grant could be replicated at specific locations in the future.

Prior CET/CPDG/Equitable Housing Grant Awards

	Project name / brief description of the project purpose (1-3 sentences)	Date Initiated/completed
1.	2013: Grant Cycle 3 – Strategically Significant Employment Lands \$221,000	Initiated In 2013 / Completed June 2014
2.	2013: Grant Cycle 3 – Performance Measures and Mixed Use Area \$160,000	Initiated 4/2014 / Completed 12/2016
3.	2015: Grant Cycle 4 - Stafford Area Preliminary Infrastructure Feasibility Assessment	IGA yet to be developed
4.		
5.		
6.		
7.		
8.		
9.		
10.		
	Total	

Metro Contract 935012-Exhibit A
County's Grant Request

Project Budget Summary				
Personnel Costs	Financial match	In kind match	2040 Grant Funds	Total
Consultants			\$180,000	\$180,000
** It is important for the consultant team to include local representatives in their outreach and design teams.				
County Staff		\$45,000		\$45,000
Supervisor @ \$96.77 / hr (no overhead)				
Senior Planner @ \$80.19 / hr (no overhead)				
Economic Development Services \$81.30/ hr (no overhead)				
Partner Staff				
Other, add rows as needed				
Total for planning services				\$225,000
OTHER PROJECT COSTS				
** The funding for the consultant team should include funds for strategic guest speakers and educational resources to empower citizen involvement				
Direct costs, please list in narrative				
** The Consulting team may incur direct costs depending on the Public Engagement Plan. These cost should be included in the Consultant Planning Services budget				
Overhead/indirect costs				
** The in-kind match hourly rate provided by the County includes indirect costs for fringe benefits				
Total for other costs				
TOTAL PROJECT COSTS				\$225,000

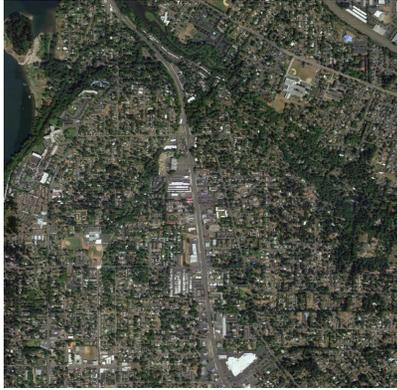
Metro Contract 935012-Exhibit A County's Grant Request

Milestones and Budget Narrative							
Milestone/ Project Element	Deliverable	MILESTONE/PROJECT ELEMENT (Phase, element, deliverable, etc.)	Grant applicant personnel costs	Partner(s) personnel costs	Consultant fees	Other project costs	TOTAL
#1		#1: Project Management	\$10,000		\$10,000		\$20,000.00
	1.1	Deliverable 1.1: IGA between Clackamas County and Metro Select Consultant team Refine detailed Scope of Work (SOW) and budget with consultant team Define quarterly grant reporting schedule					
	1.2	Deliverable 1.2: Finalize scope of work (SOW), schedule, and budget Project management team meeting throughout project					
	1.3	Deliverable 1.3: Grant reporting throughout the project					
#2		#2: Community Engagement	\$5,000		\$30,000		\$35,000
	2.1	Deliverable 2.1: Inclusive, comprehensive public engagement plan involving property owners, business owners, community partners, developers, investors, residents and others.					
	2.2	Deliverable 2.2: Creation of technical, public, focus and stakeholder advisory group members Establish a meeting schedule for the Project Management Team (PMT) and meeting with PMT and community leaders, interested parties, business owners, landowners, investment parties, and technical, focus and stakeholder groups. Set-up website and online tools for public engagement Compile names for mailing lists; stakeholders (developers/property owners/investors/renters/business owners)					
	2.3	Deliverable 2.3: Production of an inclusive and comprehensive community engagement report with metrics, visual communications and graphic materials (publications,					
#3		#3: Existing Conditions, Inventory and Data Compilation	\$10,000		\$30,000		\$40,000
		Assess and analyze existing plans, land use zone and policies Complete a land inventory, including asset mapping - identifying what is missing Census data analysis - population logistics for housing and income data Market analysis - retail, housing, built and underdeveloped properties Constraints and opportunities analysis (includes infrastructure costs) Evaluate potential impacts of development to surrounding areas Milestone #3:					
	3.1	Deliverable 3.1: Memo 1 - Summary reports of existing conditions and market analysis, including usable graphics that include existing plans, existing regulatory framework, land inventory, demographics, the natural and built environment and other area projects.					
	3.2	Deliverable 3.2 : Memo 2 - Neighborhood Livability and economic diversity assessment that considers potential impacts to surrounding neighborhoods due to population growth, traffic, rising property values and redevelopment; work to minimize negative impacts and benefit livability.					
	3.3	Deliverable 3.3 : Meeting facilitation and summaries implementing public engagement plan					
#4		#4: Draft and Refine Develop and Design Standards	\$15,000		\$95,000		\$110,000
		Prepare and conduct public and technical, stakeholders, and focus advisory group meetings. Meeting summaries					
	4.1	Deliverable 4.1: Memo 3 - Review of best practices in mixed-use zones, including projects, tools and strategies that maximize long-term affordability, sustainability, productive local economy, retain living-wage work, improve community health and collaboration					
	4.2	Deliverable 4.2 : Draft development and design standards					
	4.3	Deliverable 4.3: Memo 4 - Summary of draft standards test on actual and/or hypothetical sites, with illustrated model outcomes, effectiveness evaluation, developer and community buy-in Identify and use metrics to ensure implementation of community goals Cross-reference proposed implementation strategies with adopted goals and principles of Create a framework plan to measure performance and refine zoning to respond to market economics.					
	4.4	Deliverable 4.4: Meeting facilitation and summaries implementing public engagement plan					
	4.5	Deliverable 4.5: Refined development and design standards					
#5		#5: Implementation Strategies	\$5,000		\$15,000		\$20,000
	5.1	Deliverable 5.1 : Memo 5: Implementation framework plan, including metrics to ensure implementation of community goals, response to market economics, tool box on how to use standards and a template that can be used in other locations along the McLoughlin Corridor.					
	5.2	Deliverable 5.2: Community engagement plan with a community-centric feedback cycle.					
	5.3	Deliverable 5.3: Adoption-ready materials, including ZDO amendments that implement the development and design standards, for Planning Commission and Board of County Commissioners public hearings and action.					
		TOTAL COSTS	\$45,000		\$180,000		\$225,000
		Overhead/Indirect					
		GRAND TOTAL	\$45,000		\$180,000		\$225,000

Metro Contract 935012-Exhibit A
County's Grant Request

Breakdown of applicant and partner(s) matching contributions					
** Clackamas County is the only partner providing match on this project, therefore this table is not needed .					
Applicant jurisdiction or partner organization	In kind contributions: personnel costs	Financial Contributions personnel costs	In kind contributions: other costs	Financial Contributions other costs	TOTAL
Clackamas County	45,000				45,000
Not Applicable (N/A)	Not Applicable (N/A)	Not Applicable (N/A)	Not Applicable (N/A)	Not Applicable (N/A)	Not Applicable (N/A)
TOTAL MATCH COMMITTED					45000

Metro Contract 935012-Exhibit A
County's Grant Request



Aerial Map



Hardscape Divider



Natural Assets

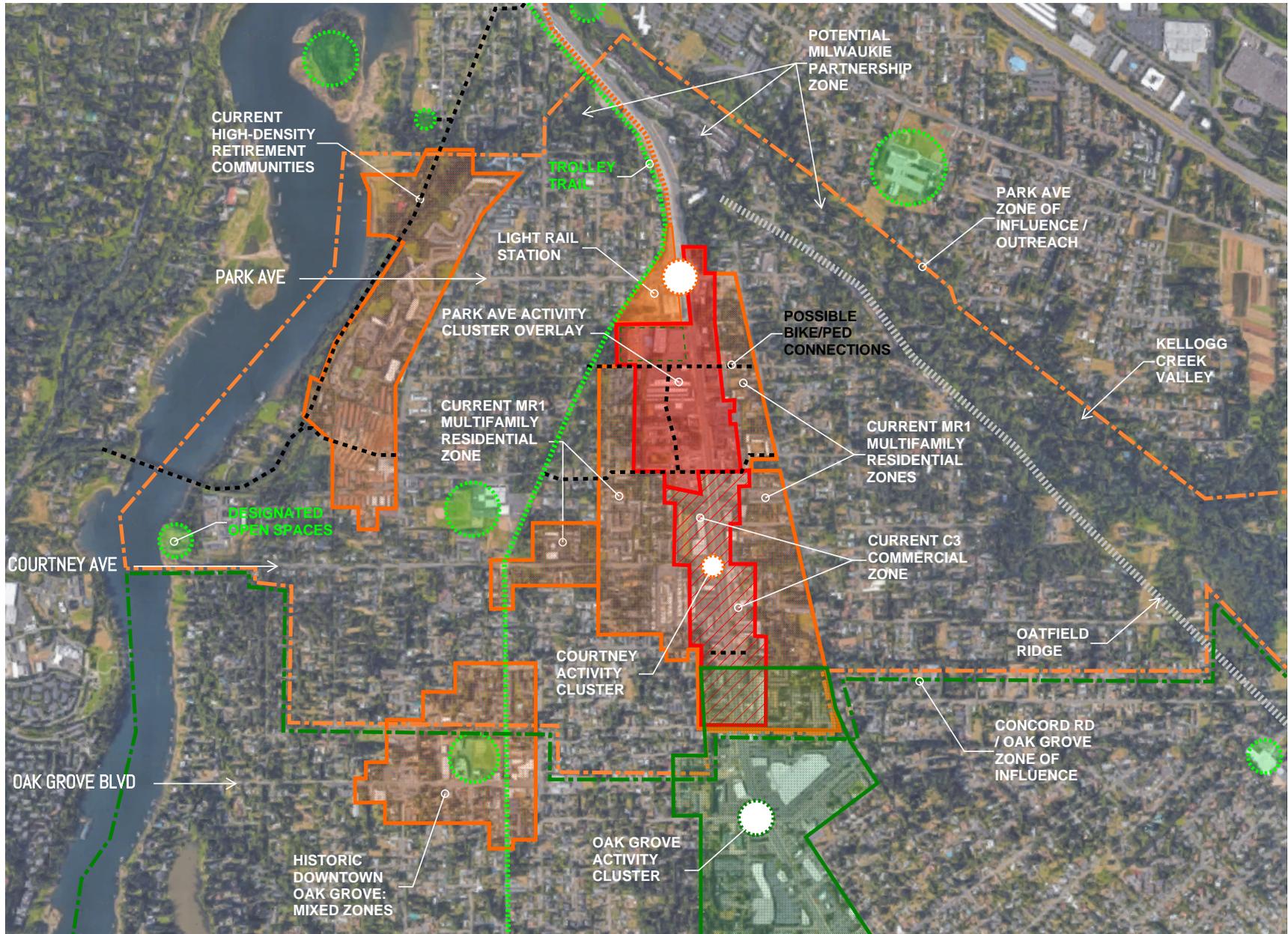


Ecosystem Connectivity



Foundation: Community Vision

Metro Contract 935012-Exhibit A
County's Grant Request



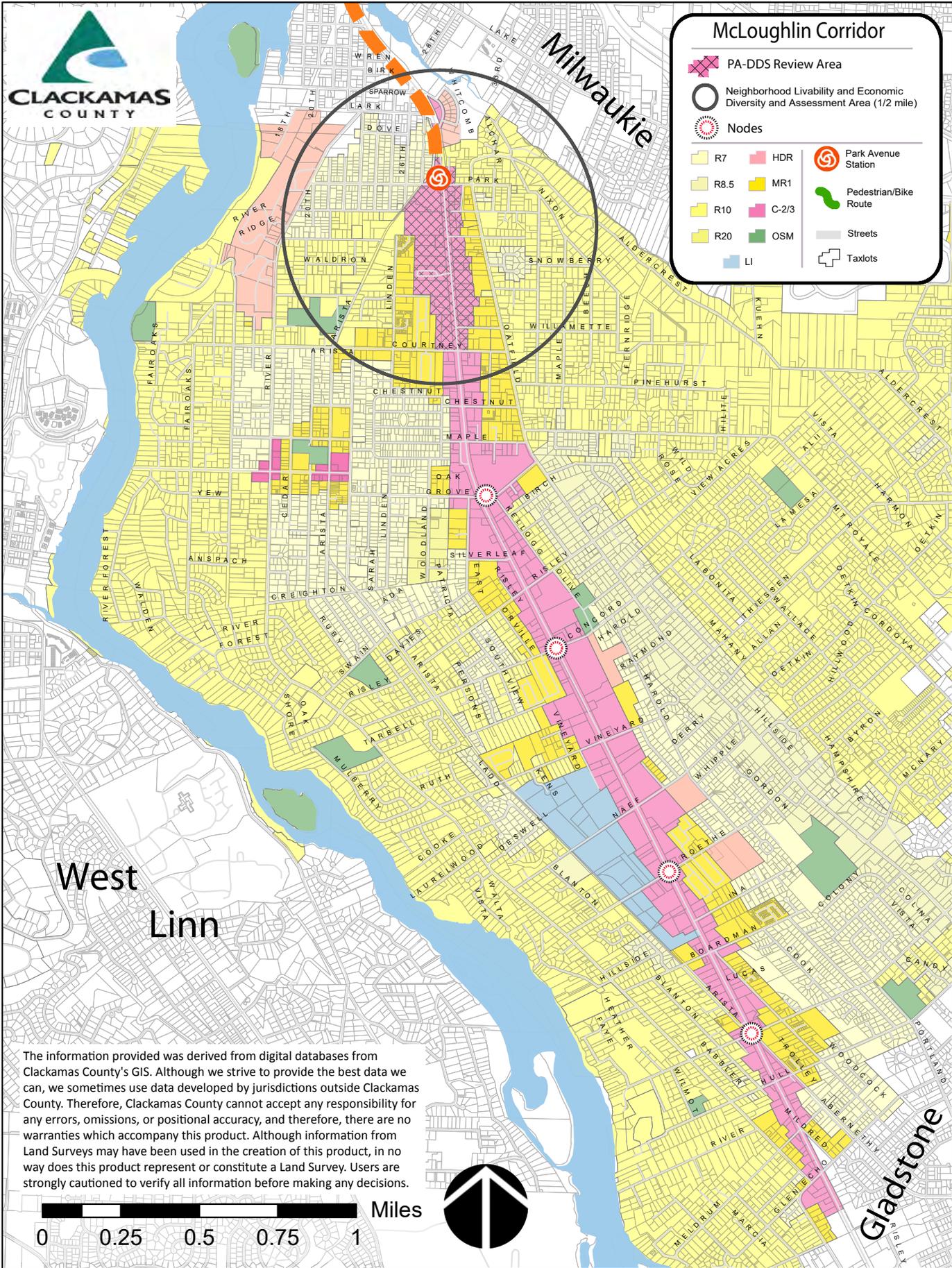
Park Avenue: Study Area Map

Metro Contract 935012-Exhibit A County's Grant Request



McLoughlin Corridor

- PA-DDS Review Area
- Neighborhood Livability and Economic Diversity and Assessment Area (1/2 mile)
- Nodes
- R7
- R8.5
- R10
- R20
- LI
- HDR
- MR1
- C-2/3
- OSM
- Park Avenue Station
- Pedestrian/Bike Route
- Streets
- Taxlots



The information provided was derived from digital databases from Clackamas County's GIS. Although we strive to provide the best data we can, we sometimes use data developed by jurisdictions outside Clackamas County. Therefore, Clackamas County cannot accept any responsibility for any errors, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. Although information from Land Surveys may have been used in the creation of this product, in no way does this product represent or constitute a Land Survey. Users are strongly cautioned to verify all information before making any decisions.



Metro Contract 935012-Exhibit A
County's Grant Request



Economic Development Commission
Managed by Business & Economic Development

June 6, 2017

Metro CPDG Grant Selection Committee

Re: Support of Clackamas County Grant Application for the Park Avenue Development and Design Standards

Dear Selection Committee;

Please accept this letter of support of the grant application from Clackamas County for the Park Avenue Development and Design Standards. This project is an inclusive public engagement process to create development and design standards for the Park Avenue Station area. Implementing the McLoughlin Area Plan, it includes an assessment of neighborhood livability and economic vitality.

The Clackamas County Economic Development Commission (EDC) is an advisory committee to the Board of County Commissioners. The EDC began studying the McLoughlin Corridor in 2011 as requested by the Board of County Commissioners to provide feedback on prioritizing areas for redevelopment opportunities throughout the County. At that time, the EDC recommended that the Corridor be broken into "nodes" to allow study of redevelopment in catalytic areas. The EDC has continued to study this area and in early 2017 invited the MAP-IT representatives to present an update of activities which included their desire to apply for the Metro grant.

As the overall outcomes of this project would include community and business-supported development and design standards to implement goals, this project is in line with the recommendations from the EDC study.

The EDC supports this effort and asks for your approval of this grant application.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Lund".

Peter Lund, Chair of the Clackamas County Economic Development Commission and on behalf of the EDC Executive Committee

:

Metro Contract 935012-Exhibit A
County's Grant Request



June 21, 2017

To Whom It May Concern,

The McLoughlin Area Business Alliance (MABA) CONVEYS ITS SUPPORT for funding the Park Avenue Development and Design Standards project (\$250,000).

As property owners and business operators on and/or near the McLoughlin Boulevard corridor, we (MABA) are committed to driving economic growth while simultaneously insuring public safety, both vehicular and pedestrian.

The Park Avenue Development and Design Standards project focuses on an inclusive public engagement process. Information sharing, constructive feedback and community support are all critical aspects in the success of this initial McLoughlin Boulevard "HUB" at Park Avenue. The Park Avenue Development and Design Standards outcomes may serve as a template for other locations along the corridor therefore engaging all existing and potential stakeholders is both imperative and prudent.

Funding the Park Avenue Development and Design Standards project will allow an opportunity for input from property owners, business operators, developers, investors and of course residents as well.

Please consider the McLoughlin Area Business Alliance's SUPPORT as you decide the future of the McLoughlin area corridor.

In Health,

MABA Management Team

Jennifer Harding, Co-chair MABA / Owner East Side Athletic Clubs

Punky Scott, Co-chair MABA / Owner The Bomber Restaurant

Sandra McLeod, Vice chair MABA / Owner Trident Realty

Metro Contract 935012-Exhibit A
County's Grant Request



June 24, 2017

Dear Metro,

The Oak Grove Community Council is in full support of the **Park Ave Development and Design Standards Project** and honored to be part of the submittal to Metro for a Community Planning and Development Grant requested by Clackamas County and MAP-IT (McLoughlin Area Plan Implementation Team).

The awarding of this grant will further one of the main efforts of the Oak Grove and Jennings Lodge communities – to revitalize the economics and livability of the McLoughlin Corridor by increasing sorely needed local living-wage work and housing opportunities. The **Park Avenue Development and Design Standards Project** is key to repurposing the neglected, underdeveloped, underutilized commercial corridor that runs through the center of our community.

Focusing on the first community identified node at Park Ave, the development and design standards created through this project will serve as a template for other 'activity clusters' along the McLoughlin Corridor to accommodate population and employment growth, both profoundly needed in Clackamas County.

In an unprecedented collaboration, members of our community have written this grant with County staff to ensure its alignment with the Community Vision, Values, and Guiding Principles of the McLoughlin Area Plan. This successful, previous community engagement effort will be the foundation for the deeper, more focused process called for in this grant.

In summary, the Oak Grove Community Council is in full support of the grant application for the **Park Avenue Development and Design Standards Project**, which will help the Oak Grove and Jennings Lodge community become the next best place to live, work and thrive.

Sincerely,

A handwritten signature in black ink, appearing to read "Baldwin van der Bijl", is written over a light gray rectangular background.

Baldwin van der Bijl
Chair
Oak Grove Community Council

Metro Contract 935012-Exhibit A
County's Grant Request



June 26, 2017

Metro CPDG Grant Selection Committee

Re: Support of Clackamas County Grant Application for the Park Avenue Development and Design Standards

Dear Selection Committee:

As Agency Architect for TriMet I've had the wonderful experience working with the good folks of *Urban Green* on the recently complete Orange Line transit project. As part of our scope for the Project, we conducted a development opportunities study for the area immediately south of the Park Avenue Station Park & Ride structure. Our interest in this area was to ensure our structure would complement future planning for redevelopment. It was evident to TriMet that there's strong interest and support for re-imagining what kind of development might occur that would leverage the substantial investment in multi-modal transportation.

The Park Avenue Development and Design Standards project would be a terrific way to engage all stakeholders in the McLoughlin Area Plan. By pursuing an inclusive public engagement process to find ways the Community Values and Guiding Principles of the Area Plan could become activated, it would help build civic capacity within the community. Outcomes of this process would be improved economic vitality, inclusiveness, sustainability and design.

It would be an essential principle of the planning process to engage with local businesses and neighbors to build community, improve accessibility, and sustainable resiliency. It would be a great way to see how existing assets and resources could be repurposed. It's apparent to many that there are significant underdeveloped, and underutilized facilities and assets along this historic commercial corridor.

It my great pleasure to support this application for grant funds to further the efforts to create the Park Avenue Development and Design Standards project.

Sincere regards,

A handwritten signature in black ink that reads "Robt. Hastings".

Robert Hastings FAIA
Agency Architect
TriMet
1800 SW First Avenue, Suite 300
Portland, OR 97201

Metro Contract 935012-Exhibit A
County's Grant Request

June 28, 2017

To: Metro Grant Screening Committee
Re: Park Avenue Development and Design Standards Project
Applicant: Clackamas County and McLoughlin Area Plan Implementation Team
Funds requested: \$180,000

Dear Screening Committee Members:

Thank you for this opportunity to confirm the unanimous support from the McLoughlin Area Plan Implementation Team (MAP-IT) for the Park Avenue Station Area Development and Design Standards grant application, submitted in partnership with Clackamas County.

The awarded grant funds will be used to hire consultants to manage the project, which is intended to facilitate inclusive public and stakeholder engagement to draft development and design standards for the Park Avenue Station Area that implement the Community Values and Guiding Principles of the McLoughlin Area Plan, including those related to economic vitality, inclusiveness, sustainability and design.

The project also includes an assessment of Neighborhood Livability and Economic Diversity in the neighborhoods surrounding the Park Avenue Station.

One of the goals of the community engagement process and resulting design and development standards is to provide a template that can be used for other nodes along the McLoughlin Corridor. The long-term intent is to repurpose the underdeveloped and underutilized commercial corridor and further provide opportunities to accommodate population and employment growth.

The project management team members are MAP-IT community and business volunteers that worked together very closely with County staff on the application. The application of the project resources for implementation of this public process would be an important first step to meaningful redevelopment of Highway 99E from Milwaukie to the Willamette Falls Legacy Project.

Sincerely,

Terry John Gibson

Terry John Gibson
Chair, MAP-IT

Park Avenue Station Area Development & Design Standards Project

Phase I: Park Avenue Station Community Assessment SCOPE OF WORK FOR DIRECT APPOINTMENT

Draft: August 1, 2018

Introduction

Clackamas County, Oregon, working with the McLoughlin Boulevard area residential and business community, is looking for consultants to create development and design standards for commercial zones within ½ mile of the Park Avenue/McLoughlin Boulevard intersection in unincorporated Clackamas County that will support the community's long-term vision for the Park Avenue Station area.

The project's area of focus is the unincorporated area of Clackamas County within one-half mile of the Park Avenue light-rail station at the intersection of Park Avenue and McLoughlin Boulevard (Appendix A, maps) in the northwest corner of Clackamas County, adjacent to Milwaukie, nine miles south of downtown Portland. However, one of the intended outcomes of the project is to provide guidance and/or a template for processes to use in updating design and development standards all along the McLoughlin Boulevard corridor in unincorporated Clackamas County.

The long-term goal is to create a vibrant, connected, sustainable and accessible community that meets diverse needs and provides long-term livability and prosperity for landowners, businesses, renters and visitors.

The new mixed use and commercial development and design standards are expected to have broad community support and be adopted into the county code by the Board of County Commissioners. In conjunction with creation of the code, a neighborhood analysis will be conducted to determine potential impacts incurred by development in the project area.

The project will begin with Phase I -- community assessment, and development of an extensive and inclusive public engagement process -- that will support the Phase II implementation of public engagement that supports the creation of multi-faceted development and design standards that reflect community values and interests. The project will seek to identify and encourage the participation of all voices of the community, from highly engaged residents to marginalized community members, and from business and landowners to the development community.

The Phase I consultant team is expected to conduct a thorough community assessment and to bring forth both innovative and proven public engagement tools that can be used in Phase II to gather and incorporate meaningful input from the broadest range of community representation. Ultimate success for both phases of the project will be measured by the extent and quality of community and stakeholder participation, and by community and stakeholder understanding and support of the proposed development and design standards. Building trust with the community will be a key factor in achieving the desired outcome.

Metro Contract 935012 - Exhibit B Scope of Work

This project is being funded through Metro's 2040 Planning and Development Grant program. 2040 grants are awarded to cities and counties in the Portland region to help remove barriers to private investment in development, promote planning activity that makes land ready for development, and help to implement the Portland region's long term plan for livability, outlined in the 2040 Growth Concept.

Background

History: The communities of Milwaukie, Oak Grove and Jennings Lodge were first connected by the Portland Traction Streetcar that began running between Portland and Oregon City in 1893. Homes and neighborhoods were built facing the line, which was at the heart of the neighborhood. State Highway 99E, which was completed in 1937, now cuts through the area from north to south as McLoughlin Boulevard. McLoughlin Boulevard makes up a substantial portion of Highway 99E, which was the main north-south highway on the U.S. West Coast from Mexico to Canada until the completion of I-5 in 1964.

After cars became routine for commuting, the streetcar stopped carrying passengers in 1958, and carried freight until 1968. Auto-oriented commercial and retail uses have dominated the landscape and continue to be prevalent. The Trolley Trail, a pedestrian and cycling trail built along the old streetcar corridor, opened in 2012. This multi-use path connects Milwaukie to Gladstone, and has direct access to the Park Ave Light Rail station. In 2015, the Light Rail Station was opened -- the southern-most station of the MAX Orange Line that provides direct access to and from downtown Portland.

Today the Trolley Trail is a focal point of the community for those who live nearby and use it to commute to the light rail line or between neighborhoods on foot or by bicycle. These new community assets, including the Trolley Trail and light-rail station, set a standard for abundant habitat and connected, natural open space. They are models of success for integrating ecosystem services, educational elements and artistic identity that reflect community values.

Past Community Planning Projects: Various community groups, jurisdictions and individuals have engaged in planning and policy efforts related to the McLoughlin area for more than 30 years. A list of relevant studies and reports is available in Appendix B.

A community-led planning effort -- the **McLoughlin Area Plan (MAP)** -- began in 2008 to look at the future of the McLoughlin area, and was endorsed and funded by Clackamas County. The overall goal was to enhance and revitalize the businesses, neighborhoods and communities in unincorporated Clackamas County between the cities of Milwaukie and Gladstone, and between the Willamette River and Interstate 205. **MAP** included six miles of unincorporated Clackamas County land east and west of the McLoughlin Boulevard corridor between the Park Avenue station and the city of Gladstone. The MAP process resulted in adopted community vision and values, and a community advisory group known as MAP-IT (the McLoughlin Area Plan Implementation Team), which is still active today and is the co-sponsor of this project. The community remains highly engaged and concerned with all planning efforts in their community.

The MAP adopted a vision framework and core values in 2010, with extensive input from the community, and later identified specific policies, projects and programs to implement that vision. It is imperative that all of MAP is addressed concurrently to provide a solid yet malleable framework for future evolution of core development, design and planning standards.

Metro Contract 935012 - Exhibit B Scope of Work

The intent of this project is not to create a new community vision, but to inform, educate and build on the vision created by MAP and shared with the community in 2010.

The community's renewed energy and vigor are focused to ensure this project will provide democratic tools to ensure cooperative planning is employed in the creation of development and design standards that will bring their vision and values to reality.

In 2010-11, the county developed the **Park Avenue Neighborhood and Station Area Planning Project**, sponsored by a \$250,000 grant from the Oregon Transportation & Growth Management Program. The intent of this project was to enhance the area for transit-oriented development to capitalize on opportunities available to the community with the new Park Avenue light rail station. The project looked at transit-oriented development in the station area and developed an overall concept for transitioning the McLoughlin Boulevard commercial corridor and the area within ½ mile of the Park Avenue Station to a more pedestrian-friendly and connected commercial district. However, the project lacked a robust public involvement component and the plan was ultimately not adopted by the Board of County Commissioners in 2012 largely due to significant opposition voiced by some community members.

Phase I Overview

The primary objective of the community assessment is to conduct thorough outreach to better understand the demographics and cultural/economic diversity of the area, identify existing community-based organizations and stakeholder groups, assess overall community awareness, opinions and support of the MAP vision, and assess broader aspects of future development trends and neighborhood change. In addition, the community assessment and proposed public engagement process will provide a broad foundation for community-building along with the inclusive and extensive public engagement process to be used during Phase II -- the technical phase -- of the Park Avenue Development and Design Standards project.

The proposed goals and activities of the community assessment include:

- Identify the diverse range of community members - study area residents and property owners, businesses, development interests, and nearby neighbors - who should be engaged in shaping the future of the area.
- Assess the current level of understanding of the MAP vision, as it relates to the corridor study area, and the amount of support for that vision.
- Build certainty that all community members will have access to the public process and equal opportunity to effectively share their views with decision-makers and elected officials during the project.
- Identify potential partnerships and programs that could support neighborhood stability and provide opportunity and security for residents despite growth and change.
- Develop an engagement strategy to support the Phase II technical work developing revised commercial development and design codes in the area such that community members will be informed by a full understanding of potential impacts of the revised codes to likely development and business activity, neighborhood livability, economic diversity, community health, natural environment, etc.
- Share the information learned through the Community Assessment with elected officials and provide them with an opportunity to guide the next steps for the project,

Metro Contract 935012 - Exhibit B
Scope of Work

including a process that will lead to the new design and development standards to be supported by the Planning Commission and adopted by the Board of Commissioners.

The **major deliverables for Phase I** include:

- A summary of findings from Phase I
- A public engagement strategy (including composition of any proposed project committees) for Phase II
- Proposed revisions to scope of work for Request for Proposal (RFP) for Phase II.

At the conclusion of Phase I, the project team will make a presentation to the Board of County Commissioners to share and seek acceptance of Phase I findings and deliverables, and to obtain direction for and approval to proceed with Phase II.

Task 1: Project Management

The consultant team will work with a team of community members and County and Metro staff. County and Metro public involvement and planning staff will be involved to offer technical assistance to the project team and ensure that project work is aligned with Metro grant funding and objectives. The consultant team will designate a Consultant Project Manager to work with the project team to ensure successful completion of all portions of Phase I. At the outset, the Consultant Project Manager will work with the project team to establish a mutually agreeable schedule for project management check-ins and community meetings. This will help to ensure a smoothly-managed project that delivers clear and expected results within budget and timeframe, and that meets requirements for Metro grant funding.

The consultant team will produce and implement the following project management tools:

Deliverable 1.1 – Finalized **project milestones and meeting schedule** including dates and objectives for all established project check-ins, milestones and meetings.

Deliverable 1.2 – **Participation and facilitation of** calls/meetings with project team, partners and community.

Deliverable 1.3 – **Written summaries of calls/meetings** including outcomes and action items.

Task 2: Research and document community demographics and organization

The outcome of Task 2 is to identify the diverse range of community members who will be most impacted by changes to the development code and new mixed use and commercial development in the corridor study area and should be engaged in shaping the future of their community, including an assessment of community organizations and interest groups and patterns of participation. The expected activities involved in this task include:

- Research and document demographics and property interests of the study area and nearby neighborhoods (including traditionally under-represented groups) to facilitate understanding the diversity of the area and who will be directly or indirectly affected by new development and code changes in the corridor study area. At a minimum,

Metro Contract 935012 - Exhibit B
Scope of Work

demographics should include population, age, employment status, home/land ownership, race/ethnicity, income level and education.

- Identify community-based organizations and interest groups working within the study area to understand the variety of community members doing business, living and working in the area and how they are organized.
- Document the array of stakeholder and interest groups, their sphere of influence, and their level of involvement relevant to community planning and development issues.
- Identify areas of need and opportunities for capacity-building in order to move forward with a stakeholder-based process to craft design and development standards.

Deliverable 2.1: Draft Memo 1: Community Demographics and Organization Summary

Deliverable 2.2: Final Memo 1: Community Demographics and Organization Summary

Task 3. Research and summarize existing policies, plans and development conditions

The outcome of Task 3 is to identify, analyze and summarize existing policies and development conditions in and around the project area, including a review of neighborhood livability. The expected activities for Task 3 include:

- Research and compile information on current and projected socio-economic and environmental conditions of the project area.
- Prepare a summary of existing policies, plans, economic conditions and market analyses that includes:
 - Existing plans, and assessment of recent history of policy discussions affecting the study area, noting especially any policy changes or assessments completed since the MAP report was drafted in 2012 and how they can provide a foundation for moving forward.
 - Current regulatory framework and language in that framework that hinders development that would achieve community goals as stated in the MAP
 - High level assessment of current land inventory for the study area, with land uses, ownership patterns, general infrastructure condition, transactional history, development trends, and/or other indications of the growth patterns in the corridor study area.
 - Analysis of the current real estate market, including considerations of land assessment noted above, nearby workforce, county economic development policies, and nearby / competitive submarkets
 - Projected potential impact new development over the next decade could have on the study area's businesses and residents, and also the potential impacts to surrounding neighborhoods, residents, and businesses.

Metro Contract 935012 - Exhibit B
Scope of Work

- Perform an initial review of neighborhood livability and economic diversity including consideration of potential economic, environmental and other impacts, such as gentrification, that has occurred in the project area and surrounding neighborhoods, and the potential impact of changes to the development and design standards in the commercial areas. Summarize findings and key considerations.

Deliverable 3.1: Draft Memo 2: Summary of Existing Policies and Development Conditions; including review of neighborhood livability.

Deliverable 3.2: Final Memo 2: Summary of Existing Policies and Development Conditions; including review of neighborhood livability.

TASK 4. Assess understandings of and opinions about the MAP vision and related implementation steps

The outcome of Task 4 is to identify the level of community knowledge of the McLoughlin Area Plan (MAP) vision in relation to the study area, the level of support for the vision and actions/policies necessary to implement it. The expected activities for Task 4 include:

- Compile a summary of policies, resources and/or programs needed to support the implementation of the community vision along the study area.
- Determine the most effective methods to specifically engage community members who will be most directly affected by the new development and design standards, including business owners and property owners, and people who are most commonly left out of policy-making processes - people with lower-incomes, cultural or language minorities, and others as identified through this assessment.
- Survey opinions about the study area (via questionnaire, interviews, focus groups and the like) to clarify prevalent opinion and issues of concern for the following sectors of community members:
 - Residents
 - Businesses and employees
 - Property owners
- Key information to elicit from survey respondents:
 - Level of familiarity and/or involvement in creating the McLoughlin Area Plan (MAP) as it relates to the study area
 - Extent to which they are familiar with, understand and/or support MAP's stated community vision and values for the study area
 - Identify how they perceive the benefits and impacts of changing the development and design standards to create a more walkable, transit-oriented environment along McLoughlin Boulevard and changes they could envision along the corridor.
 - Assess concerns about future neighborhood changes or the potential result of adjustments to local policies and future economic growth and development in the area, and their ideas for mitigating any perceived negative impacts

Metro Contract 935012 - Exhibit B
Scope of Work

- Assess the present level of support for moving forward with implementation of the MAP vision.

Deliverable 4.1: Draft Memo 3: Summary Findings of Stakeholder Opinions

Deliverable 4.2: Final Memo 3: Summary Findings of Stakeholder Opinions

Task 5: Assess community partners and develop Phase II engagement strategy

The outcome of Task 5 is to identify opportunities for community engagement and partnerships necessary to create and successfully implement development policies in the corridor study area. The overarching goal is to work with the community to create an inclusive, comprehensive public engagement process that will result in knowledgeable, empowered community members and stakeholders. The long-term success of this effort will be measured by the quantity and quality of community and stakeholder participation in both Phase I and Phase II of the project, and by the understanding and support of the proposed development and design standards. As community partners are assessed and the Phase II engagement strategy is developed, building relationships and trust with the community will be key in achieving the desired outcome.

The expected activities for this task include:

- Interview stakeholders and interested parties, including elected officials, on the information learned in Tasks 1 and 2 and the actions needed to engage a diverse representation of study area stakeholders to create development policies that will address community disparities, actively seek to retain current residents and locally-owned businesses, and support the MAP vision.
- Identify effective methods to specifically engage community members who will be most directly affected by the new development and design standards, including business owners and property owners, and people who are most commonly left out of policy-making processes, including families with lower-incomes, cultural or language minorities, and other stakeholders as identified in Task 1.
- Identify strategic partnerships that could facilitate equitable economic opportunity, housing development, etc. in the study area.
- Outline a public decision-making process with a recommended committee structure that aligns with the County's community involvement principles and best practices, and that builds up to successful adoption of the development and design standards for commercial areas on McLoughlin Boulevard in the study area.

The consultant team will produce a public engagement plan for inclusive, comprehensive and equitable public outreach and engagement that provides opportunities for those who could be directly affected by the new development and design standards to participate in the process of creating policy and advocating for their interests. The process should also seek to involve, inform, educate and interact with those who will be indirectly impacted by the changes and/or who have an interest in the future of the Park Ave and/or McLoughlin Boulevard area.

Metro Contract 935012 - Exhibit B Scope of Work

The process should focus on increasing the influence that previously marginalized members can have on these public policy decisions and also seek to touch the broad interests in the greater community.

The engagement strategy should also include explicit recommendations regarding the composition of any advisory or technical committees (if recommended) and the process by which individuals should be selected or appointed to serve on such committees.

Deliverable 5.1 – Creation of a public engagement plan, including plans for and/or documentation of:

- Use of engaged community members to assist with outreach events and strategies to draw in a wider public;
- Various interactive techniques to engage the community, including reporting back to participants so that the community can see how their comments have been reflected in the development and design standards;
- Efforts to involve people from under-represented populations (including people with disabilities, racial and ethnic minorities, low-income people, and people of all ages), and
- How the plan will work to ensure that participants believe their views and ideas have been heard, even if not adopted.

Deliverable 5.2: Draft Memo 4: Proposed Public Engagement Strategy to develop and adopt new development and design standards for the study area that support community values and the MAP vision (Phase II)

Deliverable 5.3: Final Memo 4: Proposed Public Engagement Strategy to develop and adopt new development and design standards for the corridor study area that support community values and the MAP vision (Phase II)

TASK 6: Proposed revisions to Scope of Work for Phase II

The outcome of Task 6 is a set of proposed revisions to the Phase II Scope of Work for the Park Avenue Development and Design Standards project that will implement findings from Community Assessments completed in Task 4, continue the public involvement process and create new development and design standards. Integrating all findings and information gathered and set forth through Tasks 5, the consultant will refine and flesh out the Phase II scope and approach integrating the technical work, the proposed engagement strategy (Task 5), and the required governance and process steps required for adoption of code revisions.

The proposed revisions to the scope will clearly outline the appropriate roles and responsibilities for deliberation and decision-making for code adoption, including the role, composition and authority of any advisory committees (or other groups/committees that should be used during the project), project staff, consultant team members, the Planning Commission, Board of Commissioners and any other parties that need to have a role in developing, vetting and approving urban policy for the county.

Metro Contract 935012 - Exhibit B
Scope of Work

Deliverable 6.1: Draft Memo 5: Proposed revisions to Phase II Scope of Work

Deliverable 6.2: Final Memo 5: Revised Phase II Scope of Work

**TASK 7: Seek direction from elected officials on next steps for Park Ave
Development and Design Standards Project**

The outcome of Task 7 is to share the full findings of the Phase I Community Assessment work with the Board of County Commissioners to report to the board regarding the level of community understanding of the MAP vision and the level of community interest in moving forward with code revisions that will support the types of development that the community values. In addition, the board will be presented with the proposed recommended revisions to the Phase II Scope of Work and the proposed public engagement process for Phase II, in order to obtain direction and approval to proceed with the next steps.

Deliverable 7.1: Report 1, compiling all final memos and deliverables under one cover with a brief introduction and/or executive summary.

Deliverable 7.2: Materials and presentation to Board of County Commissioners with report of Phase I findings and request for direction to continue with Phase II.

Park Avenue Station Area Development & Design Standards Project

Phase II: Community Engagement & Technical Work

REQUEST FOR PROPOSAL

UPDATED DRAFT: August 1, 2018

SECTIONS 3.1 – 3.5

DRAFT

3.1 INTRODUCTION

Clackamas County, Oregon, working with the area residential and business community, is looking for an innovative and diverse team of public engagement, real estate and land use specialists to create development and design standards for commercial zones within ½ mile of the Park Avenue/McLoughlin Boulevard intersection in unincorporated Clackamas County that will support the community's long-term vision for the Park Avenue Station area.

The project's area of focus includes the area of unincorporated Clackamas County within one-half mile of the Park Avenue light-rail station (Appendix A, maps). The new mixed-use and commercial development and design standards are expected to have broad community support and be adopted into the county code by the Board of County Commissioners. In conjunction with creation of the code, the team will also be expected to conduct a neighborhood analysis that determines potential impacts incurred by development in the project area.

The team will be expected to conduct an extensive and inclusive public engagement process to support the creation of multi-faceted development and design standards that reflect community values and interests, as described in Sections 3.4 Project Approach and 3.5 Scope of Work. To accomplish this goal all voices of the community will be sought, from the highly engaged residents to marginalized community members, and from the business and landowners to the development community. The selected consultant team is expected to bring forth both innovative and proven public engagement tools to gather and incorporate meaningful input from the broadest range of community representation.

Ultimate success for both phases of the project will be measured by the extent and quality of community and stakeholder participation, and by community and stakeholder understanding and support of the proposed development and design standards. Building trust with the community will be a key factor in achieving the desired outcome.

This project is being funded through Metro's 2040 Planning and Development Grant program. 2040 grants are awarded to cities and counties in the Portland region to help remove barriers to private investment in development, promote planning activity that makes land ready for development, and help to implement the Portland region's long term plan for livability, outlined in the 2040 Growth Concept.

Please direct all technical/specifications or procurement process questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.

3.2 PURPOSE STATEMENT

We are looking for a consultant team to work with us as:

1. A community planner, being part of a unique opportunity both in terms of outcomes and the process for arriving at those outcomes;
2. A community engagement leader who, with the use of the McLoughlin Area Plan (MAP) documents that define community values and goals, will follow the public engagement guidelines developed in Phase I of the project, and meet with residents, businesses, land owners, developers, and other interested parties to create commercial/mixed-use development standards that further define and support those values and goals;
3. An innovative team that will employ skills and techniques to help the community fully realize the area's future development potential, and
4. Technical experts who can develop unique development and design standards that support community goals and needs, and are economically feasible for the desired development types.

By engaging in an innovative and inclusive public process guided by the recommendations from Phase I and the principles in the MAP mission statement below, the community intends to support equitable prosperity and sustainable abundance for residents, businesses and visitors as a means to ensure a livable community for future generations.

In the future, our community fabric of thriving neighborhoods, shops, restaurants and services is green and sustainable; healthy and safe; woven together by walkable tree-lined streets, trails, natural area and open spaces; and strengthened by our diversified local economy, great educational opportunities and engaged citizens.

- Mission statement of the McLoughlin Area Plan, 2010

The purpose of the new development and design standards is to encourage and maintain employment, housing and economic diversity along the McLoughlin transit corridor at the Park Avenue station over the next 20 years, or for as long as the strategies employed prove to remain effective. Redevelopment often impacts existing affordable housing, half-way houses, weekly rental motels, manufactured home parks, small businesses and other existing commercial uses. With new design and development standards, we hope to be ahead of the cycle of gentrification and displacement, and ensure that clearly identified targets developed are based on community values.

Ultimately, the project aspires to create design standards to enable commercial development that promotes community goals; reinforces community identity; and generates a competitive market for new and diverse employment, multi-family housing and mixed-use opportunities. The final outcomes, including the partnership formed by strong community and business participation, should be a model that could be applicable in the future for other areas along McLoughlin Blvd.

3.3 BACKGROUND

Location: The project will focus on development and design standards for commercial and multi-family lands in unincorporated Clackamas County next to McLoughlin Boulevard within one-half mile of the Park Avenue Light Rail Station at the corner of Park Avenue and McLoughlin Boulevard. The project will also consider nearby unincorporated communities that may

Metro Contract 935012 - Exhibit B Scope of Work

influence or be impacted by new development in the study area. This area is in the northwest corner of unincorporated Clackamas County, adjacent to the city of Milwaukie, nine miles south of downtown Portland.

Transportation infrastructure that is accessible to the project area includes State Highway 99E that directly serves area, State Highway 224 located just over a mile north of the project area, Interstate 205 located approximately 5 miles east of the project area via Highway 224, and Interstate 5 approximately 14 miles away via Highway 224 and Interstate 205. Light rail was added in 2015, supported by local, state and federal funds, to better connect the greater Oak Grove and McLoughlin area to the nearby cities of Milwaukie and Portland, Oregon.

History: The communities of Milwaukie, Oak Grove and Jennings Lodge were first connected by the Portland Traction Streetcar that began running between Portland and Oregon City in 1893. Homes and neighborhoods were built facing the line, which was at the heart of the neighborhood. State Highway 99E, which was completed in 1937, now cuts through the area from north to south as McLoughlin Boulevard. Highway 99E was the main north-south highway on the U.S. West Coast running from Mexico to Canada until the completion of Interstate 5 in 1964 – and McLoughlin Boulevard makes up a substantial portion of that highway in Clackamas County.

After cars became the dominant means of commuting, the streetcar stopped carrying passengers in 1958, although it carried freight until 1968. Auto-oriented commercial and retail uses have dominated the landscape along Highway 99E, and continue to be prevalent. The Trolley Trail, a modern pedestrian and cycling trail built along the old streetcar corridor, was opened in 2012. This multi-use path connects Milwaukie to Gladstone, and has direct access to the Park Ave Light Rail station. In 2015, the Park Ave Light Rail Station was opened. This is the southern-most station of the MAX Orange Line that provides direct access to and from downtown Portland.

Today the Trolley Trail is a focal point of the project area community for those who live nearby and use it to commute to the MAX light rail line or between the neighborhoods on foot or by bicycle. These new community assets, including the Trolley Trail and light-rail station, have set a standard for abundant habitat and connected, natural open space. They are models of success for integrating ecosystem services, educational elements and artistic identity that reflect community values.

Past Community Planning Projects: Various community groups, jurisdictions and individuals have engaged in planning and policy efforts related to the McLoughlin area for more than 30 years. A list of relevant studies and reports is available in Appendix B.

A community-led planning effort -- the **McLoughlin Area Plan (MAP)** -- began in 2008 to look at the future of the McLoughlin area, and was endorsed and funded by Clackamas County. The overall goal was to enhance and revitalize the businesses, neighborhoods and communities in unincorporated Clackamas County between the cities of Milwaukie and Gladstone, and between the Willamette River and Interstate 205. **MAP** included six miles of unincorporated Clackamas County land east and west of the McLoughlin Boulevard corridor between the Park Avenue station and the city of Gladstone. The MAP process resulted in adopted community vision and values, and a community advisory group known as MAP-IT (the McLoughlin Area Plan

Metro Contract 935012 - Exhibit B
Scope of Work

Implementation Team), which is still active today and is the co-sponsor of this project. The community remains highly engaged and concerned with all planning efforts in their community.

MAP adopted a vision framework and core values in 2010, with extensive input from the community, and later identified specific policies, projects and programs to implement that vision. It is imperative that these MAP components are addressed concurrently to provide a solid yet malleable framework for future evolution of core development, design and planning standards. The community's renewed energy and vigor are focused to ensure this project will provide democratic tools to ensure cooperative planning is employed in the creation of development and design standards that will bring their vision and values to reality.

In 2010-11, the county developed the **Park Avenue Neighborhood and Station Area Planning Project**, sponsored by a \$250,000 grant from the State of Oregon's Transportation and Growth Management Program. The intent of this project was to enhance the area for transit-oriented development to capitalize on opportunities available to the community based on the new Park Avenue light rail station. The project intent was to look at allowing transit-oriented development in the station area and develop an overall concept for transitioning both the McLoughlin Boulevard commercial corridor and the Park Avenue Station Area to a more pedestrian-friendly and connected commercial district. The plan also intended to create special zoning for all residential and commercial unincorporated Clackamas County land within a ½ mile of the Park Avenue light rail station. The plan addressed a variety of housing types, economic development and reinforced natural elements and developed new code language that would have allowed for mixed use development in the area. However, the project lacked a robust public involvement component and the plan was ultimately not adopted by the Board of County Commissioners in 2012 largely due to significant opposition voiced by some community members.

Transitioning into the future:

In spring 2017, the McLoughlin Area Plan-Implementation Team (MAP-IT) proposed to include a project in the 2017-18 Clackamas County Long Range Planning work program through which County staff would work with the community to apply for a 2040 Planning and Development Grant from Metro to create development and design standards along McLoughlin Blvd in the Park Ave Station Area that implements the MAP 1 and Map 2 vision for a more walkable, transit oriented community near the light rail station. The grant application was successful, and the Metro Council awarded funds to the project in late 2017.

A consultant was hired to complete Phase I of the project in _____ 2018, and the final Phase I report was submitted to the Board of County Commissioners in _____. The Board accepted the report and gave direction for the project to move ahead into Phase II.

Now, with the southern terminus of the MAX Orange Line and station located at Park Avenue and McLoughlin Boulevard, we have an exciting opportunity to develop and apply development and design standards to the McLoughlin Boulevard corridor to provide a competitive market for future vibrant and innovative employment, multi-family housing diversity, and mixed-use developments. The newly developed standards will also take into account the multiple types of users – pedestrians, bicyclists, motorists and transit-riders. Rather than viewing Park Avenue as the “end of the line,” it can be refashioned as the entrance into the Oak Grove community and used as a prototype for future development along McLoughlin Boulevard and other similar areas in unincorporated Clackamas County and the region.

The new development and design standards will be the guidance that allows this area to transition from the historical auto-dominated uses along McLoughlin to development that supports the walkable, transit-oriented uses that can emerge around the light rail station. It will be essential to acknowledge that the existing development along the boulevard -- typified by low-density, auto-dominant uses -- still has a strong demand in today's market. At the same time, existing development patterns are shifting both on the local and regional levels, so proposals should address how future development trends are reflected in any proposed new standards. Engagement and representation of the property owners and business owners along the corridor, as well as people in adjacent neighborhoods, will be essential to the success of the project.

Our goal is for the new project area development and design standards to be crafted with the help and support of the community to implement and build upon MAP Community Values and Guiding Principles (attached) and *The Five Components of the McLoughlin Area Plan*, which were approved by the Clackamas County Board of Commissioners in 2015 (also attached). The outcome sought by both the community and County is to have design and development standards that support a welcoming, thriving business and residential community and offer equitable and sustainable affordable housing, economic diversity and innovation, employment, and accessibility for people of all ages, socio-economic levels and abilities.

3.4 PROJECT APPROACH

Knowing that complex community dynamics exist and that the previous Park Ave Station Area Plan was not successful, there was a need for a community assessment before starting the technical work. Therefore, the project was divided into two phases as outlined below.

Phase I: Park Avenue Station Area Community Assessment.

The primary objective of the community assessment phase was to conduct thorough outreach to better understand the demographics and cultural/economic diversity of the area, identify existing community-based organizations and stakeholder groups, assess overall community awareness, opinions and support of the McLoughlin Area Plan (MAP) vision, and assess broader aspects future development trends and neighborhood change. Phase I provides a broad foundation for inclusive and extensive public engagement to be used during Phase II.

Phase II: Development and Design Standard Creation and Implementation. The primary objective of Phase II is to undertake the technical components of the project, coupled with continued community engagement based on the plan developed during Phase I.

The **major deliverables for Phase II** include:

- Technical work and community engagement to present options and vet proposed code refinements.
- Zoning and Development Code amendments and maps
- Additional recommendations for implementation tools and community development strategies

At the conclusion of Phase II, the Board of Commissioners will receive a report on Phase II deliverables. Adoption-ready materials will be prepared for the Planning Commission and the Board of County Commissioners for their consideration.

3.5 SCOPE OF WORK

The successful proposer must demonstrate extensive, innovative experience and ability in engaging and working with the public and stakeholders to develop land use regulations and development strategies that support the community's vision and values.

The project will be led by the consultant team, with support from County and Metro staff, community members and stakeholders, grounded in the community vision and values as described in the following documents:

- McLoughlin Area Plan Phase I (MAP 1) -- McLoughlin Area Plan Vision Framework (<http://www.clackamas.us/mapit/documents/map1visionframeworkfinal.pdf>)
- McLoughlin Area Plan Phase II (MAP 2) -- MAP Phase II Report (<http://www.clackamas.us/mapit/documents/map2reportfinal.pdf>)
- The Five Components of the McLoughlin Area Plan (<http://www.clackamas.us/mapit/documents/fivecomponents.pdf>)

The consultant will be expected to work closely with the community to implement the public engagement plan; identify existing conditions; draft, refine and test development and design standards; and produce Zoning & Development Code amendments and related materials to implement the standards.

Task 2-1: Project Management

The consultant team will work with a team of community members as well as County and Metro staff. County and Metro staff will offer technical assistance to the project team to ensure that project work is well aligned with Metro grant funding and objectives.

The consultant team will designate a Consultant Project Manager to work with team to ensure successful completion of all phases of the project. At the outset of Phase II the Consultant Project Manager will work with the team to establish a mutually agreeable schedule for project management check-ins and broader community meetings. This will help to ensure a smoothly managed project that delivers clear and expected results within budget and timeframe, and that meets requirements for Metro grant funding.

The consultant team will produce and implement the following project management tools:

Deliverable 2-1.1 – Finalized **Phase II project milestones and meeting schedule** including dates and objectives for all established project check-ins, milestones, and meetings.

Deliverable 2-1.2 – **Participation and facilitation of** calls/meetings with project team, partners, or community.

Deliverable 2-1.3 – **Written summaries of calls/meetings** including outcomes and assigned action items.

Task 2-2: Draft and Refine Development and Design Standards

The expected outcome of Task 2-2 is to have proposed amendments to the Zoning and Development Ordinance that:

- Are enforceable, realistic and, as appropriate, incremental
- Provide a clear path to achieving community goals;
- Are outcome-based;
- Reflect the input from and are widely-supported by developers, property owners and the public, and
- Incorporate lessons learned from tests on actual or hypothetical sites.

The consultant team will produce the following deliverables:

Deliverable 2-2.1 -- Report 2: Review of best practices for land use regulations and development in mixed-use zones, with projects, tools and strategies to maximize:

- Transit-supportive development
- Long-term affordability and affordable housing
- Sustainability
- Local economic benefit
- Living-wage work
- Community health
- Natural environment
- Collaboration

Deliverable 2-2.2 -- Implementation and facilitation of the public engagement strategy developed in Phase I and as directed by the Board of County Commissioners. Implementation of the strategy should include:

- Use of engaged community members to assist with outreach events and strategies to draw in a wider public; and
- Various interactive engagement techniques, including reporting back to participants so that the community can see how their comments have been reflected in the development and design standards; and
- Efforts to involve people from under-represented populations (including people with disabilities, racial and ethnic minorities, low-income people, and people of all ages); and
- Specific practices to help ensure that participants feel their views and ideas have been heard, even if not adopted

Deliverable 2-2.3 -- Draft clear and concise development and design standards for the commercial and multi-family portions of the study area that:

- Are consistent with best practices, opinions and findings discovered in Phase I and throughout the Phase II process, including the findings of the Phase I livability assessment, and the McLoughlin Area Plan (MAP) community values and vision, and
- Facilitate incremental shifts toward the intended development goals for the area.

Deliverable 2-2.4 -- Summary of draft standards tested on actual and/or hypothetical sites in the study area, with an assessment of how well the standards:

Metro Contract 935012 - Exhibit B
Scope of Work

- Illustrate the outcomes and reflect MAP values and community input,
- Are effective in meeting the development goals as outlined in 9.1 (and/or refined through the public process),
- Respond to the real estate market / developer needs/ real while maintaining the integrity of the community vision and values for new development; and
- Are economically feasible for the preferred development types (including a feasibility analysis of actual or hypothetical sites to test the economic viability of proposed standards)

Deliverable 2-2.5 – Report 3: Proposed development and design standards report including proposed zoning codes, map amendments, and outline of process necessary for adoption.

Task 2-3: Implementation Strategies

The expected outcome for Task 2-3 is clear communication and understandable materials to facilitate adoption and implementation of the new design and development standards. In addition, the implementation framework report is expected to provide guidance on any other recommended activities the County and community can take to support desired development in the area, taking into account findings from the Phase I livability assessment for nearby residential areas.

The consultant team will produce the following deliverables:

Deliverable 2-3.1 -- Report 4: Implementation Framework Report that outlines steps that can be taken to support the implementation of the community goals through the new Park Avenue Station Area development and design standards. This should include prioritized strategies and policies that will deliver results consistent with the community values.

The report should also include tools the community can use to measure progress toward achieving the development outcomes and understand how they relate to the original goals of the community that were developed in MAP and throughout this process. These tools should include information on:

- meeting community goals through development,
- the type and quantity of development occurring that implements the standards,
- a way to record how market dynamics have influenced the rate of development

Finally, the Implementation Framework Report should include a base template for community engagement and development and design standards for planning future nodes along McLoughlin Boulevard.

Deliverable 2-3.2 – Report 5: A comprehensive public engagement report that documents the engagement process undertaken and reports on performance measures to describe the success of the public engagement plan. Report should include all visual communications, graphic materials and meeting summaries.

Deliverable 2-3.3 -- Adoption-ready maps and code text amendments for the Planning Commission and County Commission, including County Zoning & Development Code amendments to implement the proposed development and design standards, and recommended zoning and other policy changes to support future development and livability.

Metro Contract 935012 - Exhibit B
Scope of Work

Deliverable 2-3.4 – Phase II: Presentation to the Board of County Commissioners. The materials presented to the BCC shall include:

- Report 2: Best Practices in Mixed Use Zones
- Report 3: Summary of Proposed Development and Design Standards
- Report 4: Implementation Framework
- Report 5: Public Engagement Report

Park Avenue Development & Design Standards Project

Request for Proposal – Evaluation Procedure

4. EVALUATION PROCEDURE

4.1 *An evaluation committee will review all proposals that are initially deemed responsive and rank the proposals in accordance with the criteria below. The evaluation committee will then select the top candidates to participate in proposal interview / presentations. Interviews/presentations will consist of the highest scoring proposers. The invited proposers will be notified of the time, place and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.*

Written proposals must be complete and no additions, deletions or substitutions will be permitted during the interview/presentation. The evaluation committee will recommend award of contract to the Project Management Team based on the highest scoring proposal. The Project Management Team reserves the right to accept the recommendations, award to a different proposer, or reject all proposals and cancel the RFP.

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

4.2 Evaluation Criteria

<u>Category</u>	<u>Points Available</u>
General Background & Qualifications / Ability to Deliver the Project.....	15
Approach to Innovative Community Engagement.....	35
Approach to Creative Design & Development Standards.....	25
Approach to Equity.....	15
Fees.....	10

4.3 Contract Negotiations

During negotiations, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fees that best represent the efforts required. If the County is unable to come to terms with the highest scoring proposer, negotiations shall be terminated and new negotiations will begin with the next highest scoring proposer. If the resulting contract contemplates multiple phases and the County deems it in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked proposer to complete the remaining phases.

Park Avenue Development & Design Standards Project
Request for Proposal – Proposal Contents

SECTION 5
PROPOSAL CONTENTS

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

- 5.1.1 Complete proposals may be mailed to the below address or emailed to procurement@clackamas.us. The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the proposal. If the proposal is mailed, an original copy and **four copies** must be included. The proposal (hard copy or email) **must** be received by the closing date and time indicated in Section 1 of the RFP.
- 5.1.2 Mailing address including hand delivery, UPS and FedEx:
*Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, 4th floor
Oregon City, OR 97045*
- 5.1.3 County reserves the right to solicit additional information or proposal clarification from the vendors, or any one vendor, if the County deems it necessary.
- 5.1.4 Proposal may not exceed a total of **20 pages** (single-sided), inclusive of all exhibits, attachments or other information.

PROVIDE THE FOLLOWING INFORMATION IN THE ORDER IN WHICH IT APPEARS BELOW:

5.2 General Background and Qualifications / Ability to Deliver the Project:

- 5.2.1 Describe your firm/consultant team including your firm's experience (with an emphasis on projects similar to this one) and what distinguishes you from other firms doing similar work.
- 5.2.2 Describe the ability, skills and experience needed to meet the requirements in Section 3, Scope of Work, including how you would successfully accomplish the work of both major project phases on time and within budget:
 - 5.2.3.1 Phase I: Community assessment and public engagement strategy
 - 5.2.3.2 Phase II: Creation and implementation of development and design standards.
- 5.2.4 Provide credentials/experience of the individuals who would be assigned to this project, including resumes for each member of the consultant team.

5.3 Approach to Innovative Public Engagement:

- 5.3.1 How would you identify and use contributions from community groups and other local resources to support success of the project. How have you used community-driven outreach ideas with community participation?

Metro Contract 935012 - Exhibit B
Scope of Work

- 5.3.2 The project involves community members, business owners, landowners, partners, stakeholders, various age (youth, middle, and senior ages) and economic levels, and other participants with a wide variety of viewpoints and interests. Describe how -- with such a diverse audience -- you would design a process and identify tools to ensure an informed public engagement, project transparency, participation and consensus toward common benefit is achieved.
- 5.3.3 Provide your past examples of effective public engagement outcomes, how they were measured and the success and lessons learned on unsuccessful events.

5.4 Approach to Creative Development and Design Standards:

- 5.4.1 Provide an example of using a values-driven, evidence-based approach to the creation of design and development standards.
- 5.4.2 Describe your experience with crafting clear, effective and adaptable code-based development and design standards. Include examples of standards you have created. If the standards were not implemented, please explain why.
- 5.4.3 Describe what methods you would use to build support for the proposed development and design standards among the diverse audiences described above.
- 5.4.4 Provide outcomes after development and design standards have been in place for a period of time. What does the project area look like today?

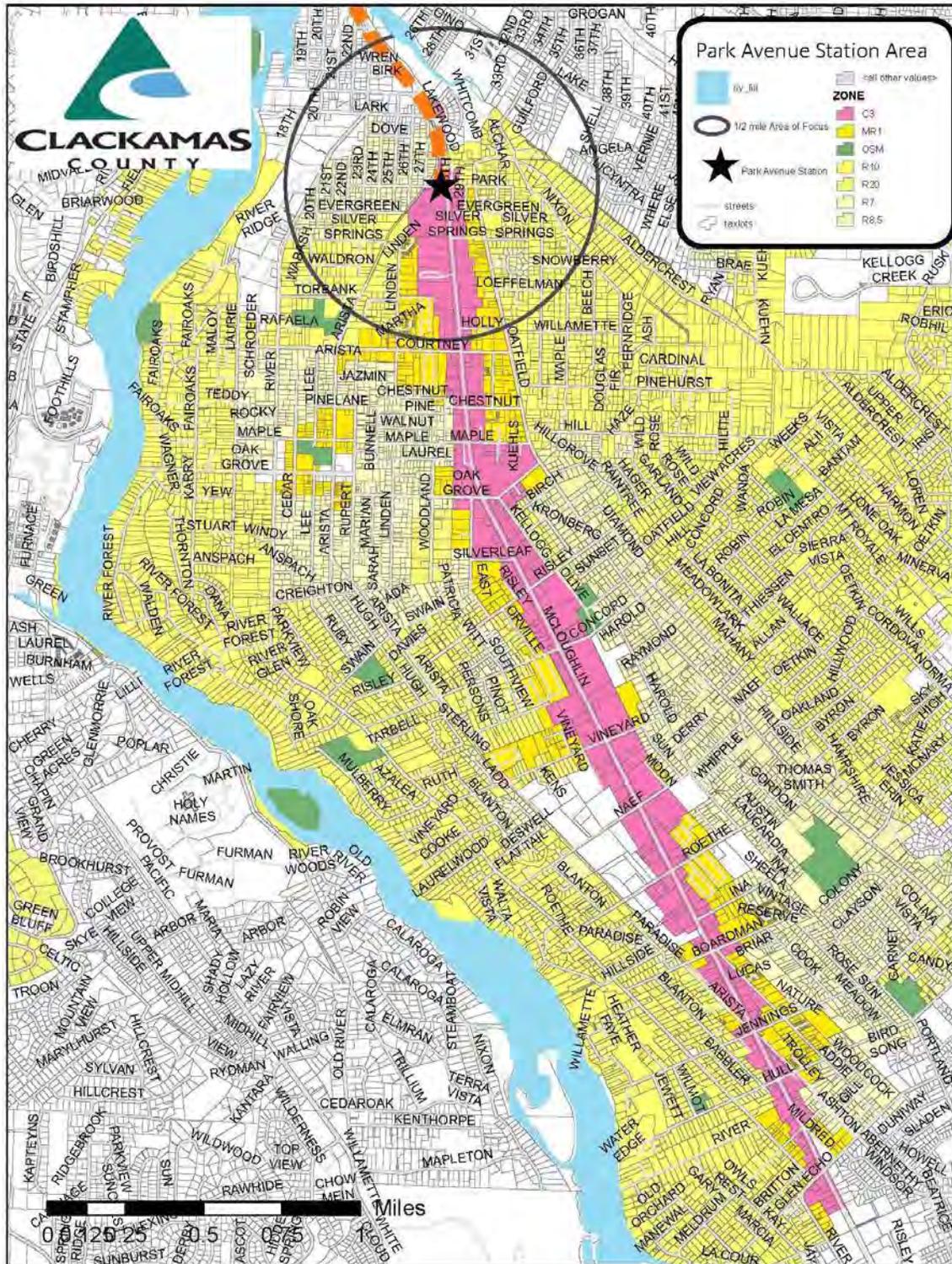
5.5 Approach to Equity:

- 5.5.1 Describe how you would apply equity principles throughout all aspects of the project, including ensuring representation from under-represented communities.
- 5.5.2 The use of COBID-certified minority-owned businesses, woman-owned businesses, businesses that service disabled veterans, owned and emerging small businesses is encouraged to the maximum extent practical. Indicate if your firm is a COBID-certified business, describe the diversity of demographics of the proposal team including subcontractors (if applicable), and identify any proposed methods or approaches to include under-represented communities. [COBID -- Oregon Certification Office for Business and Diversity]
- 5.5.3 Explain how well your proposal will advance racial equity and diversity through:
 - The inclusion of COBID-certified businesses,
 - Overall diversity of the lead firm,
 - Inclusion and engagement of other partners or methods.

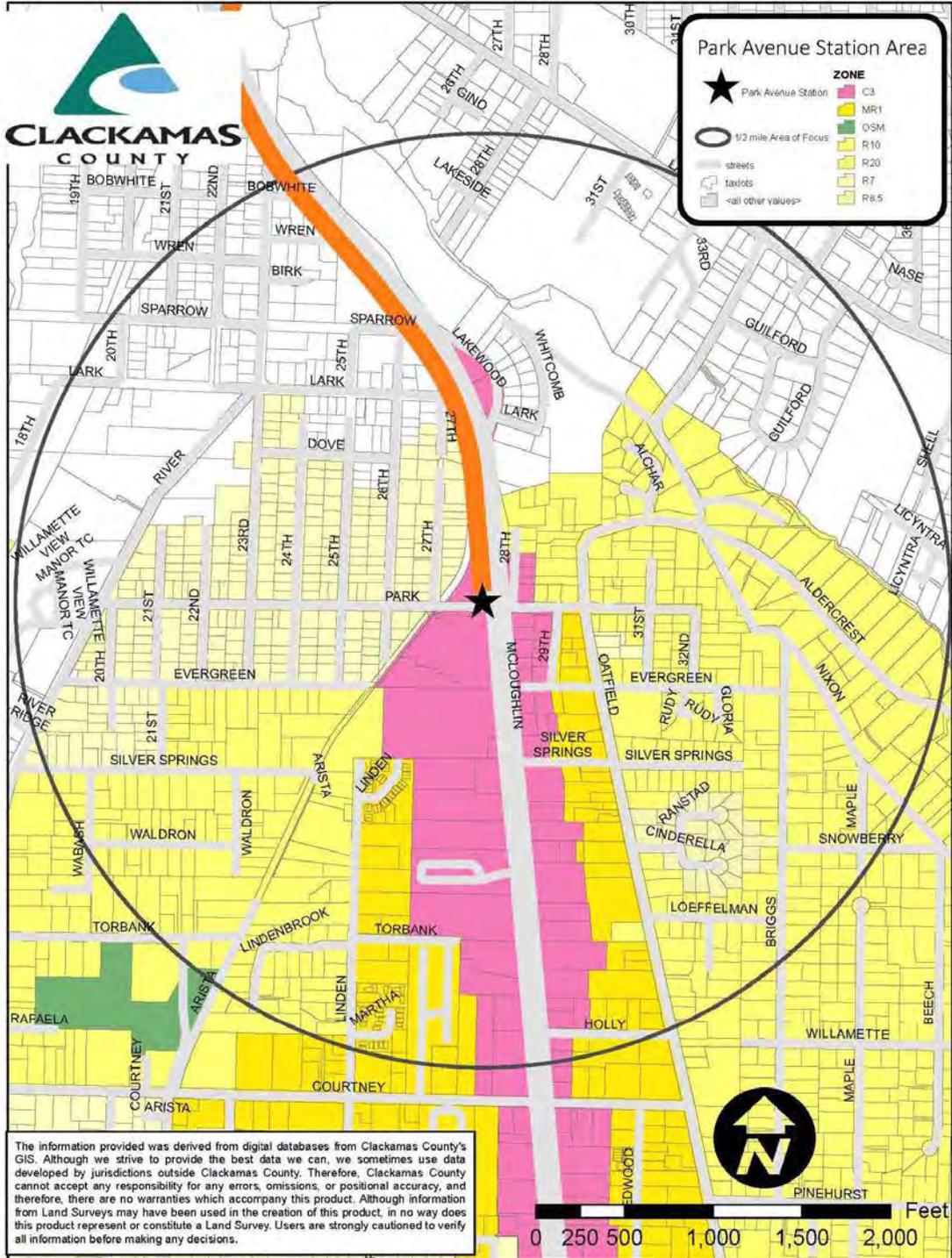
5.6 Fees:

- 5.6.1 Fees should:
 - Be on a time and materials with a not-to-exceed fee basis,
 - Be sufficiently descriptive to facilitate acceptance of a proposal, and
 - Have an outline of all estimated expenses, hourly rates for all assigned individuals, anticipated travel and other reimbursable expenses.
- 5.6.2 How would you optimize local, volunteer resources in the project?

MAPS: 1) McLoughlin Corridor with Project Area Circled; 2) Project Area Detail



Metro Contract 935012 - Exhibit B
Scope of Work



Past Plans and Studies Related to the McLoughlin Boulevard Corridor, and McLoughlin / Park Avenue Intersection and Light-Rail Station

The McLoughlin Corridor – McLoughlin Boulevard from the Gladstone city border to the south to the Milwaukie city border to the north – and the surrounding area has been the focus of a variety of studies and task forces over the years. Some key studies and recommendations are briefly summarized here.

Park Avenue Station Area Planning Project / Neighborhood Plan, 2010-12

Purpose: Adopt a Park Avenue Station Area Plan and supporting zoning ordinances to provide for diverse and thriving housing, commercial and economic opportunities in the area within one-half mile around the new light-rail station planned for the intersection of Park Avenue and McLoughlin Boulevard in unincorporated Oak Grove, just south of Milwaukie.

Lead: Clackamas County Planning & Zoning Division

Result: Recommendations for land use and transportation changes were developed on three major topics:

- Circulation plan
- Open space / street environment
- Urban design elements and frontages, and regulating plan / desired land use

The recommendations were submitted to the Clackamas County Planning Commission in late 2011 and the Board of Commissioners in early 2012. **There was strong community opposition and the plan was not adopted.**

Tourism Development Task Force, 2008-09

Purpose: Study issues related to tourism and make recommendations to the Board of County Commissioners to help ensure continued tourism development.

Lead: Clackamas County Tourism Department

Result: The task force made the following recommendations related to the McLoughlin area:

- Create a tour route along McLoughlin Boulevard, but do not preclude future light rail
- Develop enhanced street connections between McLoughlin Boulevard and the Willamette River with public access areas/sites on the riverfront
- Explore possible acquisition of more public access to the river
- Establish a major visual icon at the entrance traveling south into Clackamas County on McLoughlin Boulevard to establish a sense of arrival.

Trolley Trail Master Plan, 2002-04

Purpose: Analyze and recommend a trail alignment, environmentally-sensitive trail design features, trail amenities, and safety and security measures for the six-mile trail corridor to guide the future development and safe use and operation of the Trolley Trail as a non-motorized recreational and commuter trail.

Lead: Clackamas County North Clackamas Parks & Recreation District

Result: Recommendations included the following:

- Develop five potential trailheads and 25 pedestrian access points from neighborhood roads
- Connect to community facilities including parks, schools, retirement communities and public transit

Metro Contract 935012 - Exhibit B Scope of Work

- Develop intersection improvements and safety and security features, including strategically-placed lighting and good definition between the trail and adjacent neighbors

Construction of the six-mile Trolley Trail from Gladstone to Milwaukie on the east side of the Willamette River was completed 2012.

Portland-Milwaukie Light Rail Project: Locally Preferred Alternative Report, 2007-08

Purpose: Analyze proposed station areas along the Southeast Portland, Milwaukie and North Clackamas County portions of the proposed Portland-Milwaukie light rail alignment.

Lead: TriMet (Tri-County Metropolitan Transit District of Oregon)

Result: The report included the following recommendations for transit improvements in the Portland-Milwaukie corridor:

- Develop a light rail station within the study area at Park Avenue
- Develop a park-and-ride station at Park Avenue with 1,000 parking spaces
- Redevelop and rehabilitate existing buildings, as streetscapes and pedestrian connections

The Portland-Milwaukie light rail line, known as the MAX Orange Line, opened in September 2015, with its southern terminus at the corner of Park Avenue and McLoughlin Boulevard in unincorporated Clackamas County. There is a park-and-ride across the street from the station, with a parking garage that holds approximately 40 cars and 100 bicycles.

McLoughlin Corridor Land Use and Transportation Study, 1998-99

Purpose: Provide community-preferred design alternatives for the McLoughlin Corridor, including recommended cross-sections and other street design and transportation improvements, and recommendations related to zoning and land use.

Lead: Clackamas County

Result: Key recommendations from the final, approved plan include the following:

- Develop continuous bike lanes, sidewalks, lighting, landscape buffers and elimination of on-street parking
- Improve transit facilities and bus rapid transit
- Evaluate suitability of an Urban Business Area Overlay as a means of addressing access management
- Implement transit-oriented development standards while retaining existing zoning
- Enforce the sign ordinance and encourage connections between parking lots

Oak Grove Transportation Growth Management Plan Draft, 1994-95

Purpose: Provide direction for new growth and development for Oak Grove over the next 50 years with a mixture of services, employment and housing in a single, concentrated, walkable area.

Lead: Clackamas County Department of Transportation & Development

Result: The plan included recommendations related to walkways and transportation, land use and redevelopment, and downtown design and revitalization, such as:

- Develop a trail on Portland Traction Company trolley line
- Provide sidewalks and transit stops on essential streets
- Revise local residential street standards, and new street and pedestrian / bike access-ways
- Create more compatible zoning in Oak Grove.

The plan did not receive community consensus and was never finally approved.

Metro Contract 935012 - Exhibit B
Scope of Work

935012 Exhibit C

IGA for 2040 Planning and Development Grant Park Avenue Development and Design Standards

Milestone and Deliverables Schedule for Release of Funds

Project milestone and specified grant deliverables		Date due*	Matching contributions	Grant payment
1	Execution of Grant IGA. a) Signed IGA document	Sept.15, 2018	Project staff: \$1,000	
2	Phase I Community assessment contract Draft contract with consultant team for Phase I	Sept. 30, 2018	Project staff: \$1,000	
3	Signed contract with consultant team for Phase I.	Oct. 31, 2018	Project staff: \$1,000	
4	Community Demographics and Organization Summary	Nov. 30, 2018	Project staff: \$1,500	Consultants: \$10,000
5	Summary of Existing Policies and Development Conditions	Nov. 30, 2018	Project staff: \$2,500	Consultants: \$10,000
6	Summary of Findings of Stakeholder Opinions	Dec. 31, 2018	Project staff: \$2,500	Consultants: \$10,000
7	Proposed Public Engagement Strategy Revised Scope of Work for Phase II	Jan. 31, 2019	Project staff: \$2,500	Consultants: \$10,000
8	Phase 1 completion Board of County Commissioners hearings & action a) Final Report: Phase 1 b) Presentation to Board	Feb. 28, 2019	Project staff: \$1,000	Consultants: \$ 5,000

Exhibit C

Continued

9	Phase II initiation a) Completed Selection process for Phase II Consultant b) Determine remaining project milestones for Phase II c) Determine appropriate grant performance measures	April 30, 2019	Project staff: \$2,000	
10+	Additional milestones (to be updated in Revised Exhibit C)	TBD	Project staff: \$28,000	Consultants: \$120,000
11	Board of County Commissioners hearings & action a) Action on proposed code changes b) Final reporting on grant and performance measures	Sept. 30, 2019	Project staff: \$2,000	Consultants: \$15,000
GRANT PROJECT COMPLETION <ul style="list-style-type: none"> • All grant project deliverables submitted by grantee and approved by Metro • All required fiscal documentation submitted or retained on file as appropriate • Final reporting on grant performance measures submitted and approved by Metro 			Total Grantee Match	Total Grant Funding
			Project staff: \$ 45,000	Consultants: \$180,000
			TOTAL: \$ 45,000	TOTAL: \$180,000

NOTE: Due dates are intended by the parties to be hard estimates of expected milestone completion dates. Grantee shall not commence work for a new milestone until the prior milestone deliverable(s) has been completed approved, unless Metro's project manager has provided written approval to continue, or to work on milestones simultaneously. If the Grantee anticipates that a milestone due date cannot be met due to circumstances beyond its control, it shall inform Metro in writing no later than ten (10) days prior to the due date set forth above and provide a revised estimated due date; and Metro and the Grantee shall mutually agree upon a revision to the milestone due dates set forth in this Agreement.



DAN JOHNSON
DIRECTOR

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

September 20, 2018

Board of Commissioners
Clackamas County

Members of the Board:

**Acceptance of Transportation and Growth Management (TGM) Grant Award
for a Clackamas County Transit Development Plan**

Purpose/ Outcomes	Accept the TGM grant award to undertake a Transit Development Plan.
Dollar Amount and Fiscal Impact	Clackamas County Transit Development Plan – Total Cost: \$200,000
Funding Source	Transportation and Growth Management Program. The project will also be funded by HB 2017 Transit funds
Duration	September 2018 – December 2020
Previous Board Action	June 7, 2018 - Approval to Apply and Resolution of Support for TGM Grant
Strategic Plan Alignment	<ul style="list-style-type: none">• Build a strong infrastructure
Contact Person	Karen Buehrig, Transportation Planning Supervisor – 503-742-4683

With six transit providers in Clackamas County [TriMet, South Metro Area Regional Transit (SMART), Canby Area Transit (CAT), South Clackamas Transportation District (SCTD), Sandy Area Metro (SAM), and the Mt. Hood Express administered by Clackamas County], a Transit Development Plan (TDP) is needed to provide strategic guidance for service improvements and integration between systems from a County perspective.

The TDP will address issues emerging from Metro's 2018 Regional Transit Strategy and the TriMet HB 2017 Public Transportation Improvement Plan process. It will also build off other County documents such as the Transportation System Plan and the Community Health Improvement Plan.

RECOMMENDATION:

Staff respectfully recommends Acceptance of the 2018 Transportation and Growth Management Grant Award for the Clackamas County Transit Development Plan.

Respectfully submitted,

Karen Buehrig
Transportation Planning Supervisor
Transportation and Development



Oregon

Kate Brown, Governor

Transportation & Growth Management Program

555 13th Street, Suite 2

Salem, OR 97301-4178

FAX (503) 986-4174

<http://www.oregon.gov/lcd>

August 10, 2018

Karen Buehrig
Clackamas County
150 Beaver Creek RD
Oregon City, OR 97045

Re: Clackamas County
Transit Development Plan

Dear Ms. Buehrig:

We are pleased to inform you that the Transportation and Growth Management (TGM) Program has selected the Clackamas County Transit Development Plan to move forward to the next stage of the grant award process. Our grant manager for the project will contact you within the next week to set a date for a first meeting and start developing a statement of work. Your grant manager is Seth Brumley (503-731-8234; Seth.A.BRUMLEY@odot.state.or.us).

Seth will work with you over the next few months to negotiate a project statement of work (SOW) by January 10, 2019. We expect that the Intergovernmental Agreement (IGA) will be ready for your signature within three months of when the SOW is agreed to and submitted for consultant selection. By September 14, 2018, return the attached Grant Acceptance Form indicating that you have read and understood the 2018 Grantee Packet, which outlines the process from grant award to contract and IGA execution.

Congratulations once again. We look forward to working with you on your project.

Sincerely,

Matthew Crall
TGM Program Manager, DLCD

Michael Rock
TGM Program Manager, ODOT

cc: Seth Brumley, TGM
1.06 - 18/1C-18 File

Attachments

Grantee Acceptance Form
2018 Grantee Packet



DAN JOHNSON
DIRECTOR

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

September 20, 2018

Board of Commissioners
Clackamas County

Members of the Board:

A Board Order Adopting the Vacation of Holman Road

Purpose/Outcomes	Vacates Holman Road, a Non-maintained Local Access Road
Dollar Amount and Fiscal Impact	Application and processing fee received.
Funding Source	N/A
Duration	Upon execution; permanent vacation.
Previous Board Contact	N/A
Strategic Plan Alignment	Grow a Vibrant Economy
Contact Person	Doug Cutshall, Engineering Technician (503-742-4669)

Holman Road (Road File 893 and, Deed Book 138, Page 168, Clackamas County Deed Records) was dedicated to the public November 30, 1914, as a replacement for the vacation of a road along the north line of the Mountain Irrigation and Holman Fuel Companies property. Holman Road has not been opened to travel and is almost entirely within a marsh, additionally building a safe intersection at Wildcat Mountain Road would be difficult and costly. The petitioner has no plans for the vacated right-of-way other than to incorporate it into their acreage.

Vacating this 40 foot wide, 1320 foot long right-of-way will not deprive public access to adjoining properties and will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation Maintenance, Engineering, Planning, Traffic Divisions, and all local utility companies, have been contacted and do not have any objections to this vacation. County Counsel has reviewed and approved this vacation.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of Holman Road.

Sincerely,

Doug Cutshall
Engineering Technician

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

In the matter of the Vacation of
Holman Road a Local Access
Road, situated In Section 5,
T.3 S., R.4 E., W.M.
Clackamas County, Oregon



Board Order No. _____

Page 1 of 1

This matter coming before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, Director, have been submitted in the matter of the vacation of Holman Road, a Non-maintained Local Access Road, described as follows:

All of Holman Road, as described in Book 138, Page 168, Clackamas County Deed Records, situated in the northeast ¼ of Section 5, T.3 S., R.4 E., W.M., Clackamas County, Oregon, lying south of and between the south line of Filbert Road, County Road No. 44 and, the easterly extension of the northerly right of way line of Wildcat Mountain Road, (Market Road No. 3) as depicted on attached Exhibit "A".

Whereas the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of roadway to be in the public interest; and,

Whereas Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies, have been contacted and do not have any objections to this vacation; now therefore,

IT IS HEREBY ORDERED that the attached described portion of Holman Road, a Non-maintained Local Access Road, containing, 52,800 square feet, more or less, be vacated; and,

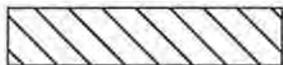
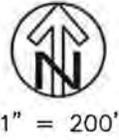
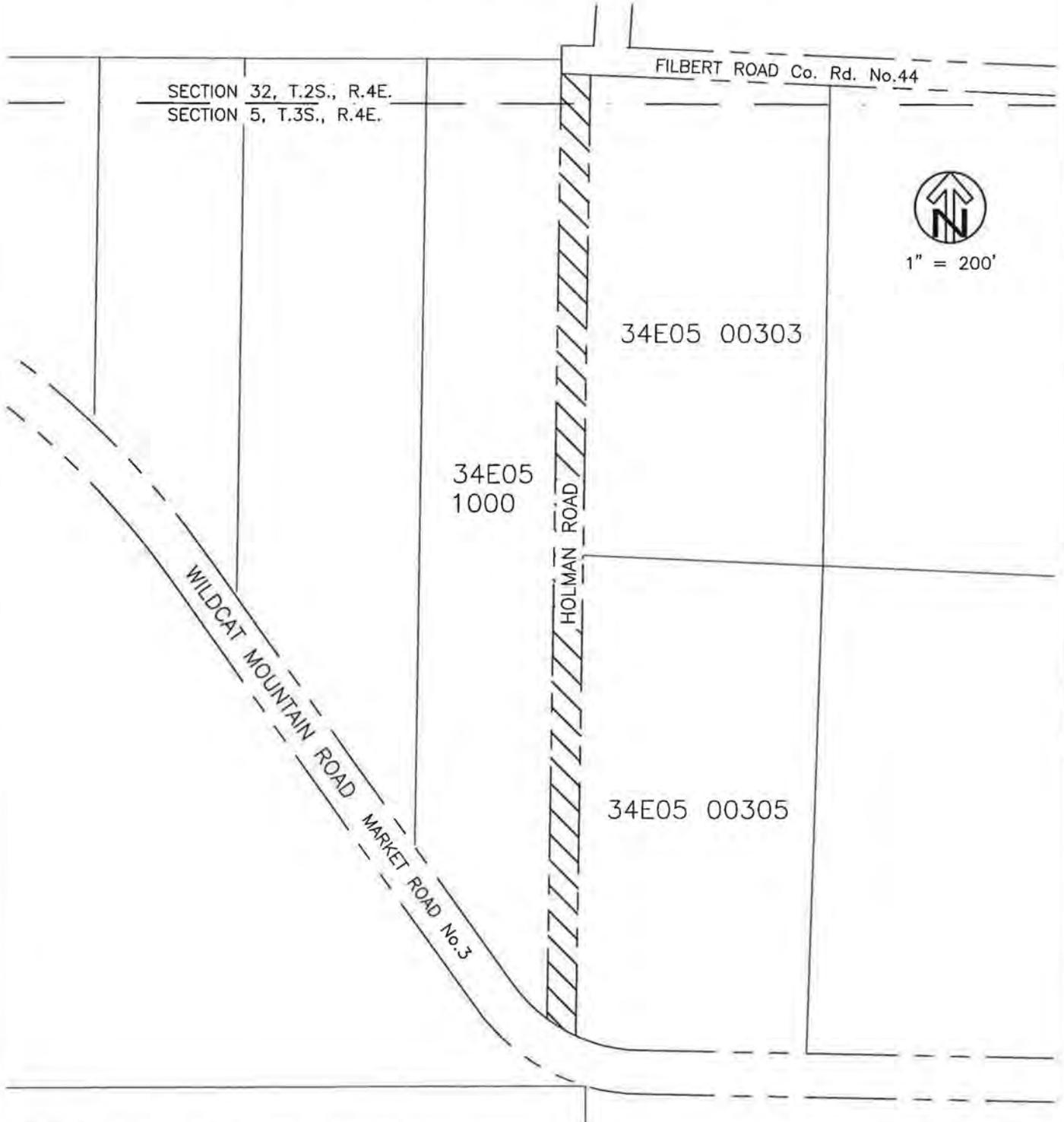
IT IS FURTHER ORDERED, that this Order and attached exhibits be recorded in the Deed Records for Clackamas County and that a copy be filed with the County Surveyor, County Assessor, and Finance Office/Fixed Assets.

ADOPTED this _____ day of _____, 2018
BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

SITUATED IN THE SE 1/4 OF SECTION 32, T.2 S., R.4 E.,
AND NE1/4 OF SECTION 5, T.3 S., R.4 E., W.M.



AREA TO BE VACATED
ROAD FILE No. 893
DEED BOOK 138 PAGE 168

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



BY: D. CUTSHALL

DATE: 05/01/2018

EXHIBIT "A"

SHEET
1 OF 1

MEMORANDUM

TO: Board of Commissioners

FROM: Dan Johnson, Director D.T.D.

DATE: May 24, 2018

SUBJ: **ROAD OFFICIAL'S REPORT FOR THE VACATION OF HOLMAN ROAD**

LOCATION: Holman Road, a Local Access Road, is situated in the SE1/4 of Section 32, T.2 S., R.4 E., and the NE1/4 of Section 5, T.3 S., R.4 E., W.M.

FACTS AND FINDINGS: Holman Road, (Road File 893 and, Deed Book 138, Page 168, Clackamas County Deed Records), was dedicated to the public November 30, 1914. Mountain Irrigation and Holman Fuel Company dedicated the right of way to replace a road being vacated along the north line of their property. Holman Road has not been opened to travel and is almost entirely within a marsh. Current engineering safety standards would not allow the construction of this road due the intersection location at Wildcat Mountain Road. The petitioner has no plan for the vacated right-of-way other than to incorporate it into their acreage. Vacating this 40 foot wide, 1320 foot long right-of-way will not deprive public access to adjoining properties and will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and, acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies have been contacted and do not have any objections to this vacation.

After considering traffic impacts, fiscal impacts, and social impacts, it appears to be in the public interest to vacate Holman Road.

It is my assessment to support the subject vacation.

Pursuant to ORS 368.351 and County policy, the Board may make its determination in the matter of this vacation without a public hearing. This is allowed when there is acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, this Road Official's Report is submitted, and there is no controversy related to the proposed vacation.



DAN JOHNSON
DIRECTOR

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

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement with the City of Canby
regarding the transfer of road authority of a portion of S. Fir Street**

Purpose/Outcomes	Transfer of roadway authority for a portion of South Fir Street
Dollar Amount and Fiscal Impact	Cost of transfer of road authority included in the transfer of the portion of S. Fir St. within Canby City limits. Cost savings to the County due to the elimination of staff time for development and permitting along this short fragmented dead-end section of S. Fir St. outside Canby city limits.
Funding Source	N/A
Duration	Upon execution; permanent transfer
Previous Board Action	None
Strategic Plan Alignment	Build a strong infrastructure Build public trust through good government
Contact Person	Rick Maxwell- Engineering Tech – 503-742-4671

This portion of South Fir Street is currently a County Road outside of the City Limits of Canby. Although the County currently has the permitting and maintenance responsibilities for South Fir Street, the surrounding properties are in the process of development and annexation in the City of Canby. Therefore, it is in the best interest of both parties and the public that future permitting and development be administered by the City and constructed to match existing City standards.

This is 1 of 3 agreements relating to the transfer of South Fir Street to the City of Canby. County counsel has reviewed and approved the attached IGA.

RECOMMENDATION:

Staff respectfully requests that the Board approve the attached IGA between Clackamas County and the City of Canby to transfer maintenance responsibility and grant permitting authority for South Fir Street.

Respectfully submitted,

Rick Maxwell,
Engineering Technician
Transportation and Development

Attachments:
Intergovernmental Agreement
Map of proposed transfer area

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CANBY AND
CLACKAMAS COUNTY RELATED TO ROAD MAINTENANCE AND PERMITTING
AUTHORITY ON A PORTION OF SOUTH FIR STREET**

This agreement (the “Agreement”) is made on the date all required signatures have been obtained, between the City of Canby (“CITY”), a political subdivision of the State of Oregon, and Clackamas County (“COUNTY”), a political subdivision of the State of Oregon, pursuant to ORS Chapter 190 (Intergovernmental Cooperation), collectively referred to as the “PARITES” and each a “PARTY.”

RECITALS

WHEREAS, ORS Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform, including the authority to perform as the “Road Authority” related to maintenance and permitting responsibilities for roads;

WHEREAS, a portion of South Fir Street is a County Road, as defined in ORS 368.001, lying outside, but adjacent to the boundaries of the City.

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of a stretch of South Fir Street, approximately 13,200 square feet in area, as more particularly depicted on Exhibit “A” which is attached hereto and incorporated herein (“Fir St.”).

WHEREAS, the City has agreed to accept exclusive jurisdiction over the remaining portion of South Fir Street lying within the corporate boundary of the City, the terms of which are addressed in a separate intergovernmental agreement between the Parties.

WHEREAS, transfer of responsibility with regards to Fir St. will lead to efficient and consistent road maintenance activities and reduce any confusion on the part of the public as to which Party is responsible for the condition and maintenance of Fir St., which primarily serves the residents of the City;

WHEREAS, the Parties acknowledge that jurisdiction of Fir St. should transfer to the City once annexed into the City’s boundary, and that this Agreement will no longer be necessary once Fir St. is annexed into the City and jurisdiction over Fir St. has been transferred; and

WHEREAS, it is the intent of the Parties that the County transfer as much of its responsibility under ORS 368 with regards to Fir St. as may be allowed under state law in order to grant the City control of Fir St. prior to the annexation and jurisdictional transfer of Fir St.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Term.** This Agreement shall be effective upon execution, and shall expire automatically at the time Fir St. has been annexed into the City and the City assumes jurisdiction of Fir St. pursuant to ORS 368 and/or ORS 373.
2. **Transfer of Authority.**
 - A. Responsibility for Road Authority activities (as outlined in Section 3) for Fir St. shall be surrendered to the City pursuant to the terms and conditions of this Agreement. The portion of Fir St. subject to this Agreement is approximately 13,200 square feet in area, as more particularly depicted on Exhibit "A" and more specifically described as follows:

All that portion of S Fir Street, County Road No. 1288, Department of Transportation and Development maintenance No. 41003; Situated in the southwest 1/4 of Section 04, T. 4S., R. 1E., W.M. and the southeast 1/4 of Section 04, T. 4S., R. 1E., W.M., as depicted on Exhibit A, attached hereto, lying south of the current Canby city limit (mile point 0.31) and end of S Fir Street (mile point 0.37), being a total of approximately 330 feet long, 40 feet in width.

Containing 13,200 square feet, more or less.
 - B. To facilitate the performance of responsibilities under this Agreement, the City hereby accepts responsibility for Road Authority activities (as outlined in Section 3) for Fir St., as described herein.
 - C. The City shall be solely responsible for all costs associated with the Road Authority activities assumed by the City through this Agreement.
3. **Road Authority Obligations.** For purposes of this Agreement, the Road Authority activities include, but are not necessarily limited to, the following:
 - A. Construction and reconstruction (including capital improvements);
 - B. Improvement or repair, and maintenance;
 - C. Maintenance and repair of related facilities within the roadway, including but not limited to storm water drainage facilities, traffic control devices, street lights and roadside barriers;
 - D. Timely elimination or mitigation of known hazards to the road users;
 - E. Issuance of permits for work or the establishment of roadway standards on Fir St.; and
 - F. All other responsibilities the County may have under ORS 368 with regards to Fir St. which may be assumed by the City under state law.

4. **Maintenance Standard.** Any maintenance on Fir St. required by this Agreement shall be carried out in a manner that is similar to other roads with similar features, function, and characteristics under the City's jurisdiction.
5. **Fir St. Transfer.** After such time that Fir St., or any portion thereof, has been annexed into the corporate boundary of the City, the County may elect to initiate the following procedures:
 - A. The County shall give notice and shall carry out those procedures set forth in ORS 373.270 to determine whether it is necessary, expedient or for the best interests of the County to surrender jurisdiction over Fir St., or any portion thereof.
 - B. After the County has initiated the process to transfer jurisdiction of Fir St., or any portion thereof, the City shall carry out those procedures set forth in ORS 373.270 for purposes of finalizing the transfer. The City shall not unreasonably delay or withhold its consent to the proposed transfer of Fir St., or any portion thereof, and shall complete the process to finalize the transfer within 90 days from the date that the County concludes its hearing and decision on the matter. This obligation shall terminate in the event the governing body of the County fails to find that it is necessary, expedient or for the best interests of the County to surrender jurisdiction over Fir St., or any portion thereof.
 - C. The City agrees to assume full and absolute jurisdiction over Fir St., or any portion thereof, in the event the governing body of the City and the governing body of the County both determine that it is necessary, expedient or for the best interests of their respective jurisdictions to complete the transfers described herein.
6. **Termination.**
 - A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
 - B. Either the County or the City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
 - C. The County or the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
 - D. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.

- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination

7. Indemnification.

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (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 County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (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 City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

8. General Provisions

- A. **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.

- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.

- E. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.
- K. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.
- L. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 so executed shall constitute an original.

M. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.

N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

CLACKAMAS COUNTY

Chair

Date

Recording Secretary

CITY OF CANBY

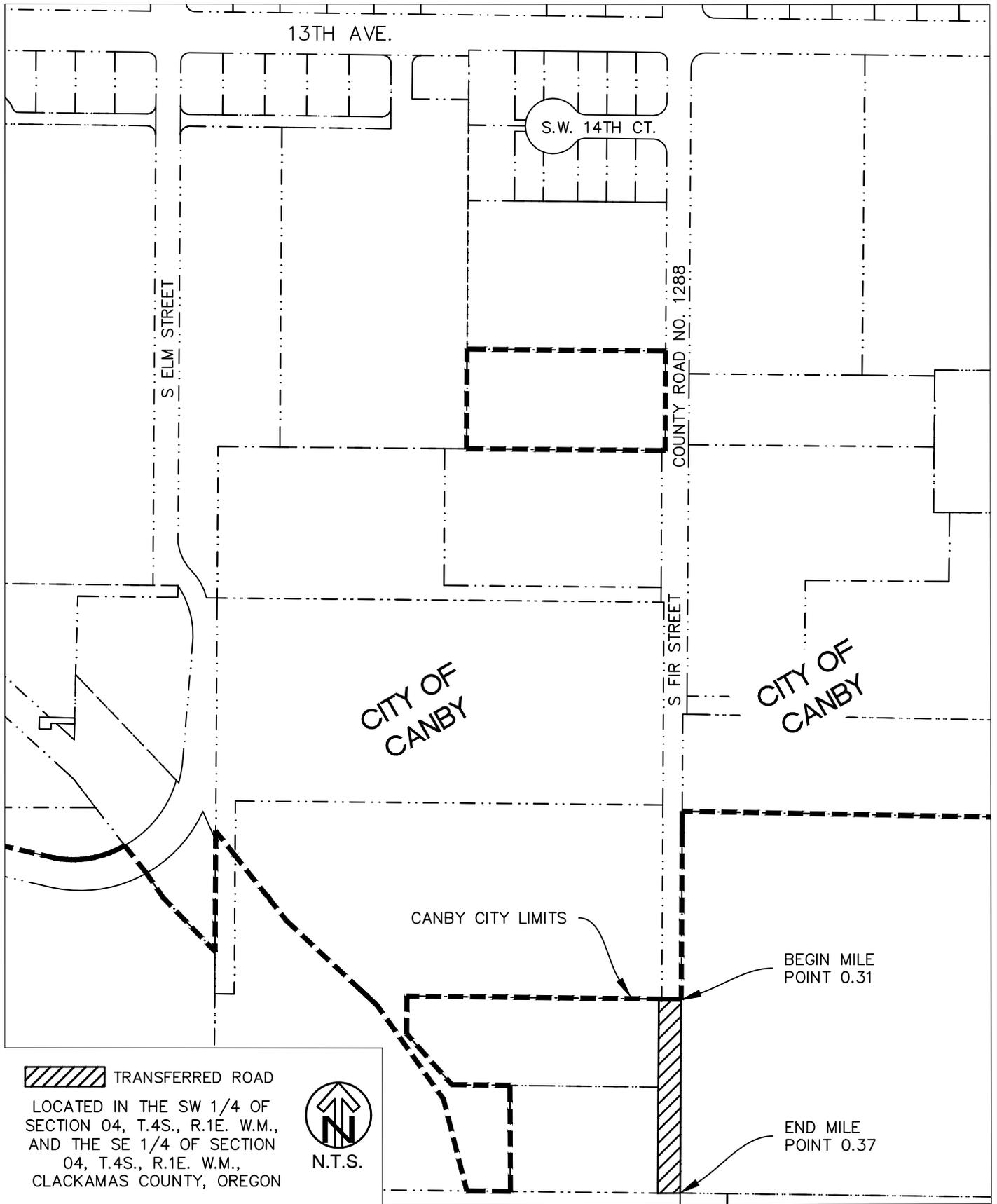
Mayor

Date

Recording Secretary

Exhibit A

EXHIBIT "A"



TRANSFERRED ROAD

LOCATED IN THE SW 1/4 OF SECTION 04, T.4S., R.1E. W.M., AND THE SE 1/4 OF SECTION 04, T.4S., R.1E. W.M., CLACKAMAS COUNTY, OREGON



N.T.S.

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



BY: R. MAXWELL

DATE: 7/24/2018

TRANSFER OF ROAD AUTHORITY
S FIR STREET
COUNTY ROAD NO. 1288

SHEET

1 OF 1



DAN JOHNSON
DIRECTOR

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

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement with the City of Canby
regarding the transfer of a portion of South Fir Street**

Purpose/Outcomes	Jurisdictional transfer of a portion of South Fir Street
Dollar Amount and Fiscal Impact	Cost savings in the form of elimination of staff time and Maintenance monies used on portion of road located entirely within the City of Canby. Initial cost of transfer is \$56,000, which represents the cost of a 2" asphalt overlay of that portion being transferred and the remaining portion outside City limits.
Funding Source	Road Fund
Duration	Upon execution; permanent transfer.
Previous Board Action	None.
Strategic Plan Alignment	Build a strong infrastructure. Build public trust through good government.
Contact Person	Rick Maxwell- Engineering Tech – 503-742-4671
Contract No.	N/A

There are certain County roads, such as South Fir Street in Canby, that are wholly, mostly, or partially within various Cities throughout Clackamas County. Fragmented jurisdiction over these roads often results in differing road maintenance activities and confusion by the public as to which agency is responsible for the operation and maintenance of the roads. With the intent of eliminating confusion to the public and to improve the efficiencies of maintenance and public service, this IGA formalizes an agreement to provide funds to the City of Canby in the amount of \$56,000, which is equal to the cost of a 2" asphalt overlay of the entire length of South Fir Street in exchange for the City assuming exclusive jurisdiction (inside and outside City limits) containing approximately 75,830 square feet of Right-of-Way. Payment of these funds are contingent upon the City finalizing the jurisdictional transfer process. Once jurisdiction is transferred, the City becomes the "Road Authority" responsible for all maintenance, permitting and road standard activities.

This is 1 of 3 agreements relating to the transfer of South Fir Street to the City of Canby. County counsel has reviewed and approved the attached IGA.

RECOMMENDATION:

Staff respectfully requests that the Board approve the attached IGA between Clackamas County and the City of Canby related to the transfer of jurisdiction of a portion of South Fir Street and the payment to the City in an amount equivalent to a 2" asphalt overlay of the entire length of South Fir Street (inside and outside City limits).

Respectfully submitted,

Rick Maxwell,
Engineering Technician

Attachments: Intergovernmental Agreement and Map of proposed transfer area

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CANBY AND
CLACKAMAS COUNTY RELATED TO THE TRANSFER OF A PORTION OF SOUTH
FIR STREET**

This agreement (the “Agreement”) is made on the date all required signatures have been obtained, between the City of Canby (“CITY”), a municipal corporation of the State of Oregon, and Clackamas County (“COUNTY”), a political subdivision of the State of Oregon, pursuant to ORS Chapter 190 (Intergovernmental Cooperation), collectively referred to as the “PARITES” and each a “PARTY.”

RECITALS

WHEREAS, ORS Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform;

WHEREAS, the portion of S. Fir St. located entirely within the boundaries of the City is a County Road, as defined in ORS 368.001 (“Fir St.”);

WHEREAS, Fir St. is depicted in Exhibit “A” and more particularly described in Exhibit “B,” all of which are attached hereto and incorporated herein;

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of Fir St.;

WHEREAS, ORS 373.270 provides a procedure whereby a county may transfer jurisdiction over any county roads within a city to the City, and the Parties desire to pursue a transfer of jurisdiction of Fir St. pursuant to the terms of this Agreement; and

WHEREAS, the Parties agree that Fir St. should be improved, or the City should be compensated, consistent with the terms of this Agreement at, or prior to, the completion of the full transfer pursuant to ORS 373.270.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Term.** This Agreement shall be effective upon execution, and shall expire automatically at the time the City assumes jurisdiction of Fir St. pursuant to ORS 373.270, and the County has paid the amount of money set forth herein.
2. **County Responsibilities.**
 - A. The County shall give notice and shall carry out those procedures set forth in ORS 373.270 to determine whether it is necessary, expedient or for the best interests of the County to surrender jurisdiction over Fir St.

B. In the event the governing body of the County determines that it is necessary, expedient or for the best interests of the County to surrender jurisdiction over Fir St., the County shall provide to the City the sum of \$56,000, which is equivalent to the cost of a 2-inch asphalt overlay on the portions of Fir St. identified in the exhibits attached to this Agreement, in addition to a portion of S. Fir St. approximately 13,200 square feet in area laying outside, but adjacent to the City's corporate limits. The sum of \$56,000 identified in this paragraph shall be payable to the City within 30 days of the date that full and absolute jurisdiction over Fir St. is surrendered by the County and accepted by the City as described below, but only after the City executes a separate intergovernmental agreement with the County accepting "Road Authority" obligations over adjacent portions of S. Fir St. that are situated outside of the boundaries of the City.

3. City Responsibilities.

- A. After the County has initiated the process to transfer jurisdiction of Fir St., the City shall carry out those procedures set forth in ORS 373.270 for purposes of finalizing the transfer. The City shall not unreasonably delay or withhold its consent to the transfer of Fir St., and shall complete the process to finalize the transfer within 90 days from the date that the County concludes its hearing and decision on the matter. This obligation shall terminate in the event the governing body of the County fails to find that it is necessary, expedient or for the best interests of the County to surrender jurisdiction over Fir St.
- B. The City agrees to assume full and absolute jurisdiction over Fir St. in the event the governing body of the City and the governing body of the County both determine that it is necessary, expedient or for the best interests of their respective jurisdictions to complete the transfers described herein.

4. Termination.

- A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
- B. Either the County or the City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The County or the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.

- D. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

5. **Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (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 County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.
- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (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 City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

6. **General Provisions**

- A. **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.
- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three

years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.

- E. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.
- K. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.

L. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 so executed shall constitute an original.

M. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.

N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

CLACKAMAS COUNTY

CITY OF CANBY

Chair

Mayor

Date

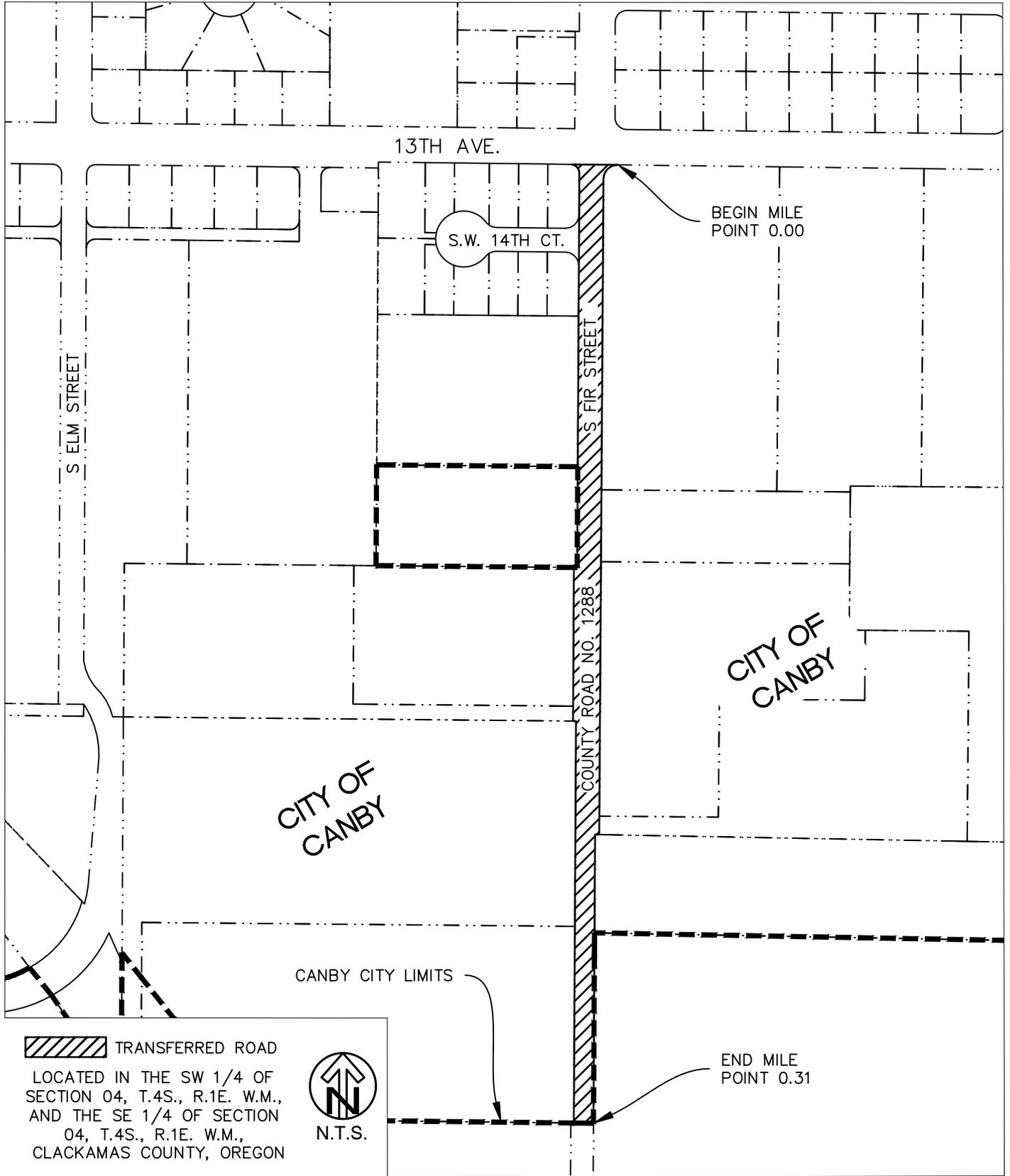
Date

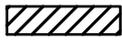
Recording Secretary

Recording Secretary

Exhibit A

EXHIBIT "A"



 TRANSFERRED ROAD
 LOCATED IN THE SW 1/4 OF SECTION 04, T.4S., R.1E. W.M., AND THE SE 1/4 OF SECTION 04, T.4S., R.1E. W.M., CLACKAMAS COUNTY, OREGON



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



BY: R. MAXWELL DATE: 7/24/2018
 JURISDICTIONAL TRANSFER
 S FIR STREET
 COUNTY ROAD NO. 1288

SHEET
 1 OF 1

Exhibit B
South Fir Street Description
Inside City Limits

All that portion of S Fir Street, County Road No. 1288, Department of Transportation and Development maintenance No. 41003; Situated in the southwest 1/4 of Section 04, T. 4S., R. 1E., W.M. and the southeast 1/4 of Section 04, T. 4S., R. 1E., W.M., as depicted on Exhibit A, attached hereto, lying south of and between 13th Avenue (mile point 0.00) and the current Canby city limit (mile point 0.31), being a total of approximately 1,609 feet long, varying in width.

Containing 62,630 square feet, more or less.



September 20, 2018

Board of County Commissioners

Members of the Board:

Approving the Conveyance of Development Agency Assets to Clackamas County, By and Through the Department of Tourism and Cultural Affairs Related to the Mt. Hood Cultural Center and Museum

Purpose/Outcome	By execution of the agreements, all rights, title, interest and responsibilities related to the Mt. Hood Cultural Center and Museum and Barlow Road Information Kiosk are transferred from the Development Agency to the County by and through the Department of Tourism and Cultural Affairs.
Dollar Amount and Fiscal Impact	No Fiscal Impact. All operations and maintenance responsibilities related to the museum and kiosk will remain with the operators.
Funding Source	No Fiscal Impact.
Duration	The Owner Participation Development Agreement being assigned is in effect until March 30, 2056.
Previous Board Action/Review	Board direction to proceed with the conveyance of assets at a Policy Session on January 23, 2018.
Strategic Plan Alignment	This transaction will build public trust through good government
Contact Person	Jim Austin, Community Relations Coordinator – Clackamas County Tourism and Cultural Affairs. 503-742-5901 or Jimaus@co.clackamas.or.us

BACKGROUND:

The Clackamas County Development Agency is the listed owner of the property/building that houses the Mt. Hood Cultural Center and Museum in Government Camp. The Agency also owns the Barlow Road Information Kiosk that is located across from the museum. Both of which were paid for with urban renewal funds.

The Museum is purchasing the property through an Owner Participation and Development Agreement (OPDA) with the Agency that will terminate in 2056 or until such time that the museum operators write down an agreed to loan. At which time, the real property will be conveyed to the Museum.

The urban renewal district in Government Camp that existed when the Agency entered into the OPDA with the Museum is no more, but the Museum's debt on the property remains. Per state statute, a development agency cannot retain assets completed as part of an executed urban renewal plan. However, urban renewal agencies may make real property available to other public

agencies so long as its on-going use is consistent with the purposes designated in the urban renewal plan. As well, Section 630 of the Government Camp Village Revitalization Plan permits the Agency to transfer property to other public agencies at no charge, so long as the property will be used in accordance with the Plan.

The Clackamas County Tourism and Cultural Affairs Department (Department) has agreed to assume ownership of the property and kiosk until such time that the museum operators write down the loan. The Department also agrees to assume the responsibilities of the Agency regarding the existing lease with the Mt. Hood Cultural Center and Museum, and interest in an easement with Charlomont Hill, LLC related to a pathway that serves the museum.

Other than minimal staff time to ensure compliance with obligations outlined in the agreement and lease, there should be no costs incurred by the Department.

All materials and information pertaining to this transfer have been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners, in its capacity as the governing body of the Clackamas County Development Agency, approve the documents necessary to convey Agency assets to the County by and through Department of Tourism and Cultural Affairs.

Respectfully submitted,



Jim Austin
Community Relations Coordinator
Clackamas County Tourism and Cultural Affairs Department

Attachments:

Assignment of Owner Participation Development Agreement
Assignment of Agreement
Assignment of Lease
Bargain and Sale Deed
Bill of Sale

**CLACKAMAS COUNTY DEVELOPMENT AGENCY
BILL OF SALE**

This Bill of Sale (this "Agreement") is made and entered into on this 6th day of September, 2018 between the CLACKAMAS COUNTY DEVELOPMENT AGENCY, the Urban Renewal Agency of Clackamas County, a corporate body politic (the "Seller"), and CLACKAMAS COUNTY, by and through its Tourism & Cultural Affairs department (the "Buyer"), collectively referred to as the "Parties."

Agreement

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, the Parties agree as follows:

1. **Property.** The Seller desires to transfer to the Buyer, and the Buyer desires to acquire, all of the Seller's right, title, and interest in and to the Barlow Road Information Kiosk located within the Government Camp Revitalization Area boundary, as defined in the Government Camp Village Revitalization Plan, as Amended April 21, 2005 (the "Plan") and situated across Government Camp Loop from the museum located at 88900 Government Camp Loop, Government Camp, OR 97028. The Seller hereby transfers all of the Seller's right, title, and interest in and to the Barlow Road Information Kiosk (the "Property")
2. **Consideration.** In consideration for the transfer of the Seller's Property, the Buyer has accepted a transfer of the proper and maintenance obligations associated with the museum located at 88900 Government Camp Loop, Government Camp, OR 97028 and will assume maintenance responsibility for the Property, consistent with the requirements of the Government Camp Village Revitalization Plan, which was originally adopted by Board Order No. 89-1143 in December 1989.
3. **Transfer of Ownership.** The Buyer will take ownership of the Property upon the full execution of this Agreement.
4. **Indemnity.** The Buyer agrees to indemnify, save harmless and defend the Seller, 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 Buyer or Buyer's officers, owners, employees, agents, or its subcontractors or anyone over which the Buyer has a right to control.
5. **Warranty.** Except as otherwise expressly stated above, the Seller makes no warranties or representations with respect to the Property. The Buyer accepts the Property AS IS, WHERE IS, in its present condition, including all defects and with all faults, and there are no warranties of merchantability or of fitness for a particular purpose with respect to the Property.
6. **Amendments.** The Seller and the Buyer may amend this Agreement at any time by written amendment executed by both Parties.

7. **Assignment.** The Buyer will not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the Seller, which may be granted or withheld in the Seller's sole and absolute discretion.

8. **Integration.** This Agreement contains the entire agreement between the Seller and the Buyer and supersedes all prior written or oral discussions or agreements.

9. **Governing Law.** This Agreement has been negotiated, prepared, and executed in accordance with the laws of the state of Oregon and will be construed in accordance with those laws.

10. **Public Contracting Law.** The Parties hereby agree to abide by and incorporate by reference all relevant provisions and requirements of ORS Chapters 279A, 279B, and 279C.

11. **Counterparts.** This Agreement may be executed in multiple originals or counterparts, each of which will be deemed original for all purposes, together constituting one and the same instrument. Copies of the parties' signatures to this Agreement transmitted by facsimile, e-mail or other electronic means shall be considered originals for all purposes.

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.

CLACKAMAS COUNTY

CLACKAMAS COUNTY
DEVELOPMENT AGENCY

Chair

Chair

Date

Date

ASSIGNMENT OF LEASE

THIS ASSIGNMENT OF LEASE is dated September 6, 2018, and is between Clackamas County Development Agency, "**Assignor**," and Clackamas County, by and through its Tourism & Cultural Affairs department, "**Assignee**."

RECITALS:

- A. Assignor is the "Landlord" under that certain lease with the Mt. Hood Cultural Center and Museum, an Oregon nonprofit corporation, as the tenant (the "**Tenant**"), dated March 30, 2006, which was recorded on April 6, 2006 as document no. 2006-030760 of the Clackamas County, Oregon, Records;
- B. The "Leased Premises" which are the subject of the Lease consist of a building and associated facilities located at 88900 Government Camp Loop, Government Camp, OR 97028, as more particularly described in the Lease;
- C. The Leased Premises are used as a year-round museum, cultural facility and community center;
- D. Contemporaneous with the execution of this Agreement, Assignor deeded the Leased Premises to Assignee.
- E. Assignee, having reviewed and become familiar with all of the terms and conditions of the Lease, now wishes to acquire Assignor's interest in the Leased Premises, and is willing to assume all of the obligations of the Landlord under the Lease and in and to the Leased Premises.

NOW, THEREFORE in consideration of the mutual promises contained herein, and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee covenant and agree as follows:

1. Assignment

a. Assignment of Interest

Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's interest as Landlord in and to the Lease and in and to the Leased Premises.

b. Representation

Assignor warrants that the Lease is in good standing according to its terms, that the Lease has not been amended or modified, except as set forth in the recitals above, and that Tenant is current on all rent due thereunder.

c. Consideration

The consideration for this assignment consists of Assignee's acceptance of fee title of the Leased Premises and assumption of all liability for performance of the Lease.

2. Assumption

a. Assumption of Interest

Assignee hereby accepts the foregoing assignment by Assignor and assumes responsibility for performance of all obligations of Assignor as Landlord under the Lease.

b. Indemnification

Assignee agrees to hold harmless, indemnify, and defend Assignor its officers, elected officials, agents and employees from and against any loss, claim, or liability suffered by or asserted against Assignor as a result of Assignee's liability to fully perform the Lease at any time hereafter.

c. As-Is

Assignee has inspected the Leased Premises and accepts the same in "AS IS" condition.

3. General Provisions

a. Oregon Law and Forum

This Assignment shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

b. Applicable Law

The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

c. Non-Exclusive Rights and Remedies

Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Assignment shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

d. Debt Limitation

This Assignment 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.

e. Severability

If any provision of this Assignment 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 Assignment without such provision to give effect to the maximum extent possible the intentions of the Parties.

f. Integration, Amendment and Waiver

Except as otherwise set forth herein, this Assignment constitutes the entire agreement between the Parties on the matter of the lease assignment. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Assignment. No waiver, consent, modification or change of terms of this Assignment shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Assignment shall not constitute a waiver by such Party of that or any other provision.

g. Counterparts

This Assignment may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 Assignment so executed shall constitute an original.

h. Authority

Each Party represents that it has the authority to enter into this Assignment on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Assignment.

i. Necessary Acts

Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Assignment.

IN WITNESS WHEREOF, the undersigned have executed this assignment of lease effective as of the date first above written.

ASSIGNOR:
Clackamas County Development Agency

Chair

Dated: _____

ASSIGNEE:
Clackamas County

By:

Dated: _____

ASSIGNMENT OF AGREEMENT

THIS ASSIGNMENT OF LEASE is dated September 6, 2018, and is between Clackamas County Development Agency, "**Assignor**," and Clackamas County, by and through its Tourism & Cultural Affairs department, "**Assignee**."

RECITALS:

- A. Assignor and the Mt. Hood Cultural Center and Museum, an Oregon nonprofit corporation, (the "**Museum**"), are parties to a certain Assignment of Lease dated March 30, 2006, which was recorded on April 6, 2006 as document no. 2006-030761 of the Clackamas County, Oregon, Records (the "**Agreement**");
- B. The "Leased Premises" which are the subject of a Lease between the Tenant and Charlomont Hill, LLC, dated February, 2006 (the "**Lease**") consist of vacant land that is improved with a pathway that is located between the property at 88900 Government Camp Loop, Government Camp, OR 97028, and the right of way of Government Camp Loop, as more particularly described in the Lease and the Agreement;
- C. The Leased Premises are used to provide access to the year-round museum, cultural facility and community center located on the adjacent parcel;
- D. Assignee, having reviewed and become familiar with all of the terms and conditions of the Agreement, now wishes to acquire Assignor's interest in the Leased Premises, and is willing to assume all of the rights and obligations of the Assignor as Agency under the Agreement.

NOW, THEREFORE in consideration of the mutual promises contained herein, and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee covenant and agree as follows:

1. Assignment

a. Assignment of Interest

Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's interest as Agency in and to the Agreement and in and to the Leased Premises.

b. Representation

Assignor warrants that the Agreement is in good standing according to its terms, and that the Agreement has not been amended or modified, except as set forth in the recitals above.

c. Consideration

The consideration for this assignment consists of Assignee's acceptance of fee title of the adjacent parcel on which the museum, cultural facility and community center are located and assumption of all liability for performance of the Agency under the Agreement.

2. Assumption

a. Assumption of Interest

Assignee hereby accepts the foregoing assignment by Assignor and assumes responsibility for performance of all obligations of Assignor as Agency under the Agreement.

b. Indemnification

Assignee agrees to hold harmless, indemnify, and defend Assignor its officers, elected officials, agents and employees from and against any loss, claim, or liability suffered by or asserted against Assignor as a result of Assignee's liability to fully perform the Agreement at any time hereafter.

c. As-Is

Assignee has inspected the Leased Premises and accepts the same in "AS IS" condition.

3. General Provisions

a. Oregon Law and Forum

This Assignment shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

b. Applicable Law

The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

c. Non-Exclusive Rights and Remedies

Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Assignment shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

d. Debt Limitation

This Assignment 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.

e. Severability

If any provision of this Assignment 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 Assignment without such provision to give effect to the maximum extent possible the intentions of the Parties.

f. Integration, Amendment and Waiver

Except as otherwise set forth herein, this Assignment constitutes the entire agreement between the Parties on the matter of the Agreement assignment. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Assignment. No waiver, consent, modification or change of terms of this Assignment shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Assignment shall not constitute a waiver by such Party of that or any other provision.

g. Counterparts

This Assignment may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 Assignment so executed shall constitute an original.

h. Authority

Each Party represents that it has the authority to enter into this Assignment on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Assignment.

i. Necessary Acts

Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Assignment.

IN WITNESS WHEREOF, the undersigned have executed this assignment of lease effective as of the date first above written.

ASSIGNOR:

Clackamas County Development Agency

Chair

Dated: _____

ASSIGNEE:

Clackamas County

By:

Dated: _____

BARGAIN AND SALE DEED

GRANTOR:

Clackamas County Development Agency
Development Services Building
150 Beavercreek Road
Oregon City, OR 97045

GRANTEE:

Clackamas County
Tourism & Cultural Affairs
150 Beavercreek Road
Oregon City, OR 97045

After Recording Return To:

Clackamas County Development Agency
150 Beavercreek Road
Oregon City, OR 97045

Until a Change is Requested, Tax Statements shall be sent to the following address:

Clackamas County
Tourism & Cultural Affairs
150 Beavercreek Road
Oregon City, OR 97045

Agenda No: _____
and/or
Board Order No: _____

BARGAIN and SALE DEED

KNOW ALL PERSONS BY THESE PRESENTS, that the CLACKAMAS COUNTY DEVELOPMENT AGENCY, the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY, OREGON, a corporate body politic (which, together with any successor public agency designated by or pursuant to law, is herein called the "Agency"), does hereby grant, bargain, sell and convey as grantor unto CLACKAMAS COUNTY, a corporate body politic, by and through its Tourism & Cultural Affairs Department (hereinafter called the "County") as grantee and to its successors and assigns, all of the following described real property, with the tenements, hereditaments and appurtenances (the "Property") situated in the County of Clackamas, State of Oregon, to wit:

See Exhibit "A" attached hereto and incorporated herein.

The true and actual consideration for this conveyance is the assumption of responsibilities described in the following agreements between the parties, all of even date herewith: Assignment of Lease, Assignment of Agreement, Bill of Sale, and Assignment of Owner Participant and Development Agreement Under Government Camp Village Revitalization Plan & Report.

This Grant is made by the Agency pursuant to powers exercised by it under Oregon Revised Statutes Chapter 457 for the purpose of carrying out an urban renewal plan for the Government Camp Revitalization Area which Plan was approved by the Clackamas County Commission in December 1989 and which Plan has been amended and, as amended, is incorporated herein and by this reference made a part hereof.

“BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.”

[Signature and Acknowledgement on Following Page]

IN WITNESS WHEREOF, the Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County has caused this instrument to be executed by duly elected officers this ____ day of _____, 2017.

CLACKAMAS COUNTY DEVELOPMENT
AGENCY, the URBAN RENEWAL AGENCY OF
CLACKAMAS COUNTY, a corporate body politic
under ORS Chapter 457

By: _____
Chair

STATE OF OREGON)
) ss.
County of Clackamas)

On this ____ day of _____, 2017 before me the undersigned, a notary public in and for such state, the foregoing instrument was acknowledged before me by _____, Chair, on behalf of the Clackamas County Development Agency.

Notary Public for Oregon
My Commission Expires: _____

ASSIGNMENT OF OWNER PARTICIPANT AND DEVELOPMENT AGREEMENT UNDER GOVERNMENT CAMP VILLAGE REVITALIZATION PLAN & REPORT

THIS ASSIGNMENT OF OWNER PARTICIPANT AND DEVELOPMENT AGREEMENT UNDER GOVERNMENT CAMP VILLAGE REVITALIZATION PLAN & REPORT is dated September 6, 2018, and is between Clackamas County Development Agency, "**Assignor**," and Clackamas County, by and through its Tourism & Cultural Affairs department, "**Assignee**."

RECITALS:

- A.** Assignor is the "Agency" under that certain Owner Participant and Development Agreement Under Government Camp Village Revitalization Plan & Report with the Mt. Hood Cultural Center and Museum, an Oregon nonprofit corporation, as the "Owner Participant," dated August 23, 2001 (the "**First OPDA**");
- B.** On March 30, 2006, Agency and Owner Participant entered into the Owner Participant and Development Agreement Under Government Camp Village Revitalization Plan & Report (Second) (the "**Second OPDA**") which was recorded on April 6, 2006 as document no. 2006-030759 of the Clackamas County, Oregon Records to provide additional funding to the Owner Participant;
- C.** The Agency and Owner Participant entered into an amendment to the Second OPDA on August 19, 2010, which increased the amount of funding provided by the Agency to the Owner Participant (the First OPDA, the Second OPDA and this amendment are collectively referred to herein as the "**Agreement**");
- D.** The "Subject Premises" which is the subject of the Agreement consist of a building and associated facilities located at 88900 Government Camp Loop, Government Camp, OR 97028, as more particularly described in the Agreement";
- E.** The Subject Premises are used as a year-round museum, cultural facility and community center;
- F.** Contemporaneous with the execution of this Agreement, Assignor deeded property to Assignee on September 6, 2018
- G.** Assignee, having reviewed and become familiar with all of the terms and conditions of the Agreement, now wishes to acquire Assignor's interest in the Subject Premises, and is willing to assume all of the obligations of the Agency under the Agreement and in and to the Subject Premises.

NOW, THEREFORE in consideration of the mutual promises contained herein, and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee covenant and agree as follows:

1. Assignment

a. Assignment of Interest

Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's interest as Agency in and to the Agreement and in and to the Subject Premises.

b. Representation

Assignor warrants that the Agreement is in good standing according to its terms and that the Agreement has not been amended or modified, except as set forth in the recitals above.

c. Consideration

The consideration for this assignment consists of Assignee's acceptance of fee title of the Subject Premises and assumption of all liability for performance of the Agreement.

2. Assumption

a. Assumption of Interest

Assignee hereby accepts the foregoing assignment by Assignor and assumes responsibility for performance of all obligations of Assignor as Agency under the Agreement.

b. Indemnification

Assignee agrees to hold harmless, indemnify, and defend Assignor its officers, elected officials, agents and employees from and against any loss, claim, or liability suffered by or asserted against Assignor as a result of Assignee's liability to fully perform the Agreement at any time hereafter.

c. As-Is

Assignee has inspected the Subject Premises and accepts the same in "AS IS" condition.

d. Restriction on Use and Transfer

While the Agreement is in effect, Assignee agrees that it shall not transfer the Subject Premises or use the Subject Premises for speculative purposes. Assignee further agrees that the Subject Premises shall continue to operate consistent in all respects with the Government Camp Village Revitalization Plan. Assignor may demand Assignee reconvey the Subject Premises to Assignor, or Assignor's successor entity, where Assignee defaults under the terms of this provision. Assignor reserves all rights to enforce this provision.

3. General Provisions

a. Oregon Law and Forum

This Assignment shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

b. Applicable Law

The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

c. Non-Exclusive Rights and Remedies

Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Assignment shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

d. Debt Limitation

This Assignment 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.

e. Severability

If any provision of this Assignment is found to be unconstitutional, illegal or unenforceable, this Assignment 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 Assignment without such provision to give effect to the maximum extent possible the intentions of the Parties.

f. Integration, Amendment and Waiver

Except as otherwise set forth herein, this Assignment constitutes the entire agreement between the Parties on the matter of the Assignment. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Assignment. No waiver, consent, modification or change of terms of this Assignment shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Assignment shall not constitute a waiver by such Party of that or any other provision.

g. Counterparts

This Assignment may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 Assignment so executed shall constitute an original.

h. Authority

Each Party represents that it has the authority to enter into this Assignment on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Assignment.

i. Necessary Acts

Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Assignment

IN WITNESS WHEREOF, the undersigned have executed this Assignment effective as of the date first above written.

ASSIGNOR:

Clackamas County Development Agency

Chair

Dated: _____

ASSIGNEE:

Clackamas County

Chair

Dated: _____

DRAFT

Approval of Previous Business Meeting Minutes:

August 9, 2018

August 16, 2018

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

Thursday, August 9, 2018 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

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

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

1. Spirit Excellence Employee Awards Presentation
Jackie Nerski, A-Team Representative gave back ground for the SPIRIT of Excellence Awards. She stated this is the sixth year the A-Team has partnered with HR to bring the awards of excellence. Previously the awards were the Bravo Excellence award and have recently changed to honor those that embody our County Core Values, SPIRIT. In the past year over 100 bravo awards were submitted. Ten of these bravos were selected by leadership committee members to receive the SPIRIT of Excellency Award. She introduced this year's winners: John Evans, BCS, Candice Gage, H3S, Edith Solid-Balbuena, H3S, Lori Stomps, H3S, Marco Enciso, H3S, Rachel Kropf, H3S, Teresa Marehouse, H3S, Roxann Fisher, Finance, and Jackie Nerski, Disaster Mgmt.
~Board Discussion including presentation of certificates and photo~

II. CITIZEN COMMUNICATION

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

1. Clair Klock, Corbett – spoke about agriculture and forest lands.
~Board Discussion~

III. PUBLIC HEARING

1. **Resolution No. 2018-76** for a Clackamas County Supplemental Budget (Greater than 10% and Budget Reduction) for Fiscal Year 2018-2019
Christa Wolfe, Finance presented the staff report.
Chair Bernard opened the public hearing and asked if anyone wished to speak, seeing none, he closed the public hearing and asked for a motion.

MOTION:

Commissioner Humberston: I move we approve the Resolution for a Clackamas County Supplemental Budget, Greater than 10% and Budget Reduction for Fiscal Year 2018-2019.

Commissioner Schrader: Second.

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

IV. CONSENT AGENDA

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

MOTION:

Commissioner Schrader: I move we approve the consent agenda.
Commissioner Humberston: Second.
all those in favor/opposed:
Commissioner Fischer: Aye.
Commissioner Humberston: Aye.
Commissioner Schrader: Aye.
Commissioner Savas: Aye.
Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

A. Health, Housing & Human Services

1. Approval for the Public Health Division to Apply for the Strategies for Policy and Environmental Change (SPARC), Tobacco-Free Grant Opportunity – *Public Health*
2. Approval of an Amendment to the Cooperation Agreement with the Friends of the Estacada Community Center for the Re-Roof and HVAC Replacement Project – *Housing & Community Development*
3. Approval to Apply to the Tri-County Metropolitan Transportation District of Oregon for Regional Coordination Program Funds to Support Last Mile and Commuter Shuttle Service in Underserved Areas of Clackamas County – *Social Services*
4. Approval of an Intra-Agency Funding Agreement with the Department of Transportation & Development for Reimbursing Public Health Division 50% of the Costs of a Full Time Employee to Conduct Health and Community Impact Assessment – *Public Health*

B. Department of Transportation & Development

1. Approval of an Intergovernmental Agreement with Clackamas River Water Relating to the Hattan Road Paving Project
2. Approval of a Contract with Braun Construction & Design, LLC. for the SE Last Road Improvement Project - *Procurement*

C. Finance Department

1. Approval of Amendment No. 3 to the Contract with ABC Roofing for the Re-Roofing of Multiple Building Projects, Roofing Services - *Procurement*

D. Elected Officials

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

E. Technology Services

1. Approval to Amend a Service Level Agreement between Clackamas Broadband eXchange and Clackamas Educational Service District

V. DEVELOPMENT AGENCY

1. Approval of Granting a Permanent Right-of-Way Easement on SE Last Road for Road Purposes

VI. SERVICE DISTRICT NO. 5 (Street Lighting)

1. **Board Order No. 2018-77** Certifying the 2018-2019 Assessment Roll for Clackamas County Service District No. 5

VII. COUNTY ADMINISTRATOR UPDATE

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

VIII. COMMISSIONERS COMMUNICATION

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

MEETING ADJOURNED – 11:07 AM

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. <https://www.clackamas.us/meetings/bcc/business>

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

Thursday, August 16, 2018 – 10:00 AM

Clackamas County Fairgrounds

694 NE 4th Ave., Canby, OR 97013

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



CALL TO ORDER

- Roll Call
- Pledge of Allegiance

Chair Bernard thanked VFW Post 1324 for presenting the colors.

Administrator Krupp made an announcement that Clackamas County turned a 175 years old in 2018 and that the County would be hosting a celebration in October.

Chair Bernard announced the Board would recess as the Board of County Commissioners and convene as the Housing Authority Board for the next items and he introduced Housing Authority Commissioner Paul Reynolds.

I. HOUSING AUTHORITY CONSENT AGENDA

Chair Bernard asked the Clerk to read the Housing Authority consent agenda by title, then asked for a motion.

MOTION:

Commissioner Reynolds: I move we approve the Housing Authority consent agenda.

Commissioner Humberston: Second.

all those in favor/opposed:

Commissioner Reynolds: Aye.

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 6-0.

1. Approval of an Intergovernmental Agreement between the Housing Authority and Social Services for Case Management for Housing our Families Program
2. Approval of an Intergovernmental Agreement between the Housing Authority and the region's other Public Housing Authority's to Conduct a Fair Market Rent Study
3. Approval of an Intergovernmental Agreement between the Housing Authority and Social Services for Case Management for the Jackson Transitional Housing Program
4. Resolution No. 1932 Authorizing the Housing Authority to Submit the Section 8 Management Assessment Program (SEMAP) Certification to US Department of Housing and Urban Development
5. Approval of the Development Service Agreement with Northwest Housing Alternatives, Inc. for the Development of Pleasant Avenue Veterans Housing Project

Chair Bernard announced the Board will Adjourn as the Housing Authority Board and Reconvene as the Board of County Commissioners for the remainder of the meeting.

II. PRESENTATIONS (Following are items of interest to the citizens of the County)

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

1. Welcome to the Fair from Raeline Kammeyer, Fair Board Secretary
2. Presentation on 100 Years of OSU Extension Service
Mike Bondi, Oregon State University Extension Service spoke about the 100 years of Extension and 4-H in Clackamas County and then he gave a brief history lesson about the extension service.
3. 4-H Presentation
Wendy Hein, 4-H Coordinator introduced several 4-H members who showcased their 4-H projects including animals, some spoke about the importance of the 4-H program. Wendy then presented the Commissioners with special 4-H Centennial t-shirts.

III. CITIZEN COMMUNICATION

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

1. Bill Osburn, Gladstone – Spoke on SOLVE events at Hi Rocks Park and invited the Commissioner to come out and help keep the rivers clean and ask for more volunteers.
2. Don Kingsborough, West Linn – He gave a report on community services from the granges in Clackamas County. He introduced Cheniqua Coleman, representing Clarkes Grange who presented Chair Bernard with a check in the amount of \$1109 dollars for the Veteran's Village.
3. Eric Hofeld, Clackamas – Spoke regarding Tolling and Vehicle Registration Fee and asked if the public would get to vote on it to have a voice. Had some questions relating to ODOT as well.

~Board Discussion~

IV. CONSENT AGENDA

Chair Bernard asked the Clerk to read the consent agenda by title only. Commissioner Fischer gave remarks on item A.1. Chair Bernard then asked for a motion

MOTION:

Commissioner Schrader: I move we approve the consent agenda.
Commissioner Savas: Second.
all those in favor/opposed:
Commissioner Humberston: Aye.
Commissioner Fischer: Aye.
Commissioner Savas: Aye.
Commissioner Schrader: Aye.
Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

A. Health, Housing & Human Services

1. Approval of Two Agreements with Northwest Housing Alternatives, LLC for the Pleasant Ave. Veterans Housing Apartments Project in Oregon City – *Housing & Community Development*
2. Approval of an Application to US Department of Housing and Urban Development, Continuum of Care Program Annual Renewal of Funds – *Housing & Community Development*
3. Approval of an Agency Services Contract with LifeWorks Northwest for Outpatient Mental Health Services for Uninsured and Indigent Residents of Clackamas County – *Behavioral Health*
4. Approval of a Professional, Technical, and Personal Services Contract with Northwest Family Services for Spanish Mental Health First Aid Trainings – *Behavioral Health*

5. Approval of a Grant Agreement with LifeWorks Northwest for Relief Nursery Services – *Children, Youth & Families*
6. Approval of Amendment No. 2 to an Agency Service Agreement with Northwest Housing Alternatives, Inc. for HomeBase Program Operations and Financial Assistance – *Social Services*
7. Approval of an Agreement with Green Energy Solutions, Inc. for Weatherization Major Measure Construction Services – *Procurement*
8. Approval of an Agreement with Alpha Energy Savers, Inc. for Weatherization Major Measure Construction Services – *Procurement*
9. Approval of an Agreement with Energy Comfort and Construction LLC for Weatherization Major Measure Construction Services – *Procurement*
10. Approval of an Agreement with Performance Insulation & Energy Services, Inc. for Weatherization Major Measure Construction Services – *Procurement*
11. Approval of an Agreement with Richart Family, Inc. for Weatherization Major Measure Construction Services – *Procurement*

B. Department of Transportation & Development

1. Approval of Supplemental Project Agreement No. 32607 with Oregon Department of Transportation for the South End Road at MP 3.8 Project
2. Approval of Cooperative Agreement No. 32726 with Oregon Department of Transportation for the Systemic Signals and Illumination Project in Clackamas County

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Approval of a Memorandum of Understanding between Clackamas County Board of Commissioners and the Tourism Development Council - *BCC*

D. Technology Services

1. Approval of a Contract with Tech Heads, Inc. for the Technology Services Server Room Upgrade - *Procurement*

V. WATER ENVIRONMENT SERVICES

1. Approval of Amendment No. 3 to the Contract Documents with CH2M Hill Engineers for the Tri-City Water Resource Recovery Facilities Solids Handling Improvements Project - *Procurement*
2. Approval of the Purchase from Evoqua Water Technologies LLC for Bioxide for Water Environment Services Wastewater Treatment Plants - *Procurement*

VI. COUNTY ADMINISTRATOR UPDATE

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

VII. COMMISSIONERS COMMUNICATION

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

Meeting Adjourned at 11:03 AM



Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Request by the Clackamas County Sheriff's Office to enter into an
Intergovernmental Agreement with
State of Oregon - Department of State Police

Purpose/Outcome	This Agreement provides the Clackamas County Sheriff's Office access to the Oregon State Police's Automated Biometric Identification System.
Dollar Amount and Fiscal Impact	The cost per fiscal year is \$12,990 or \$64,950 for five (5) fiscal years
Funding Source	The cost for the services as described in the agreement will be covered by dedicated funds in the Investigations Department of the Sheriff's Operations budget.
Safety Impact	Provides CCSO Investigators with necessary data to make positive identifications related to cases.
Duration	The Agreement spans the time period of July 1, 2018 – June 30, 2023
Previous Board Action/Review	The Board of County Commissioners has approved this Agreement in past fiscal years.
Contact Person	Lt. Ken Boell – Office phone: (503) 785-5116
Contract No.	None

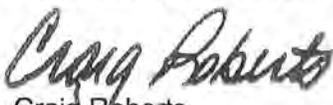
BACKGROUND:

This Intergovernmental Agreement continues to allow the Clackamas County Sheriff's Office access to data needed in order to complete investigations. The Agreement spans five (5) fiscal years and will end on June 30, 2023. County Counsel has reviewed and approved this Agreement.

RECOMMENDATION:

The Clackamas County Sheriff's Office Staff recommends that the Board of County Commissioners approve and sign this Intergovernmental Agreement with the State of Oregon – Department of State Police.

Respectfully submitted,


Craig Roberts,
Sheriff

INTERGOVERNMENTAL AGREEMENT

between
the Clackamas County, Oregon, an Oregon county, for the benefit of its Sheriff's Office ("User")
and
The State of Oregon, by and through its Department of State Police ("OSP")
for the purpose of
providing User access to OSP's Automated Biometric Identification System ("ABIS")
processing, and defining the terms and conditions of such access

1. RECITALS

- 1.1 WHEREAS, Western Identification Network, Inc ("WIN") is a non-profit corporation created by the member states to provide services related to the reading, digitizing, matching, storing, and retrieval of fingerprint and palm print images, data records, and respective minutiae data ("ABIS" services); and
- 1.2 WHEREAS, WIN services are provided through a multi-state funded system comprised of a host system located in Rancho Cordova, California, with remote input stations and local site workstations in member states as authorized by the WIN Board of Directors; and
- 1.3 WHEREAS, in addition to fingerprint and palm print services, WIN intends to broaden its services to include the reading, digitizing, matching, storing, and retrieval of other biometric data, including but not limited to retinal and facial minutiae data; and
- 1.4 WHEREAS, all of WIN's services will now be called the Automated Biometric Identification System; and
- 1.5 WHEREAS, OSP is required under ORS 181A.140 to install and maintain systems for filing and retrieving fingerprint data and supplemental information submitted by criminal justice agencies for the identification of criminal offenders as the Superintendent of State Police deems necessary; and
- 1.6 WHEREAS, OSP contracts with WIN for access to WIN ABIS for itself and for Oregon law enforcement agencies who meet WIN standards and agree to terms and conditions of access such as those set forth in this Agreement; and
- 1.7 WHEREAS, WIN has determined that all local law enforcement agency access should be authorized through a direct contract with the principal state law enforcement agency which, in Oregon, is OSP. OSP is authorized by WIN to subcontract WIN ABIS access through agreements such as this Agreement; and
- 1.8 WHEREAS, User and OSP have entered into intergovernmental agreements in the past whereby OSP would provide fingerprint and palm print image, data record, and respective minutiae data reading, digitizing, matching, storing, and retrieval services to User; and
- 1.9 WHEREAS, OSP and User's current Agreement for fingerprint and palm print image, data record, and respective minutiae data reading, digitizing, matching, storing, and retrieval services expires on June 30, 2018; and

- 1.10 WHEREAS, OSP desires to continue providing fingerprint and palm print image, data record, and respective minutiae data reading, digitizing, matching, storing, and retrieval services to User, as well as such other ABIS services that WIN is capable of providing in the future; and
- 1.11 WHEREAS, User desires to continue receiving fingerprint and palm print image, data record, and respective minutiae data reading, digitizing, matching, storing, and retrieval services; and
- 1.12 WHEREAS, OSP and User further acknowledge that in the event that OSP's participation in WIN terminates, for whatever reason, prior to the expiration date of this Agreement, OSP and User understand and agree that OSP and User will negotiate a new Agreement, prior to any OSP termination in WIN, so that User will continue to receive ABIS services from OSP.

Now THEREFORE, in consideration of the mutual promises, terms and conditions contained in the Agreement the parties agree as follows:

2. SCOPE OF AGREEMENT

- 2.1 OSP and User understand and agree that this Agreement is limited only to WIN ABIS fingerprint and palm print image, data record, and respective minutiae data reading, digitizing, matching, storing, and retrieval services.
- 2.2 OSP and User understand and agree that in the future, as WIN becomes capable, WIN ABIS will include other types of biometric data reading, digitizing, matching, storing, and retrieval services, including but not limited to, facial recognition and retinal scanning. OSP and User further understand and agree that should User desire remote access to WIN ABIS services other than the reading, digitizing, matching, storing, and retrieval of fingerprint and palm print image, data record, and respective minutiae data, that OSP and User will amend this Agreement to reflect the additional WIN ABIS services provided, as well as any costs associated thereto.

3. OSP OBLIGATIONS

- 3.1 OSP will provide User, through its participation in WIN ABIS, remote access to fingerprint and palm print image, data record, and respective minutiae data reading, digitizing, matching, storing, and retrieval services.
- 3.2 In the event that User requires additional equipment for WIN ABIS services, OSP agrees to assist User in acquiring such equipment for additional costs as specified through contract between WIN and WIN's ABIS Vendor.
- 3.3 OSP agrees to coordinate the installation of remote site ABIS equipment, telecommunication lines, modems, and other transmission equipment necessary to connect User sites, via OSP's central site, to the WIN Central Site in Rancho Cordova, California. User remote site ABIS equipment and maintenance shall be provided in accordance with contractual agreement between WIN and WIN's ABIS Vendor (hereinafter referred to as "Vendor").
- 3.4 OSP agrees to provide appropriate facsimile or other electronic transmission service, as requested, to ensure all Oregon WIN member participants have the ability to exchange fingerprint images interactively. Cost of facsimile or other electronic transmission service will be mutually agreed upon between OSP and User.

- 3.5 OSP agrees to coordinate training for User, and between User and WIN to ensure effective system use.
- 3.6 OSP agrees to provide management support and liaison between WIN, User, and Vendor for future upgrades and system enhancements.
- 3.7 OSP agrees to provide User input, through OSP, to WIN in development and management of mechanisms to ensure effective operation of the WIN ABIS. This will be carried out by recommendations to the WIN Policies and Procedures Committee, which committee makes recommendations to the WIN Board of Directors.
- 3.8 OSP agrees to provide optimum service levels as agreed upon between OSP and WIN, through WIN's monitoring of overall WIN ABIS system usage and throughput thresholds.
- 3.9 OSP agrees to continue research and development with WIN of identification services linked directly or indirectly to ABIS, which will improve services to User.

4. USER OBLIGATIONS

- 4.1 User agrees to operate WIN ABIS equipment and to otherwise conduct its activities in strict compliance with the WIN-OPS Policy and Procedure Manual. In the event of apparently conflicting requirements, User will seek and comply with instruction from OSP.
- 4.2 User agrees to assign an ABIS contact person to serve as ABIS liaison in WIN ABIS related issues. The ABIS contact person should, at a minimum, maintain a position of authority within the User agency that directs the daily operation of ABIS and related ABIS issues. The contact person shall be responsible for administering WIN ABIS issues with the designated OSP WIN ABIS Coordinator. The User also agrees to notify the OSP WIN ABIS Coordinator immediately, in writing, of any changes in this position.
- 4.3 The User understands and agrees that access to the central site databases will be provided within limitations established by the WIN Board of Directors.
- 4.4 User shall take necessary measures to make the WIN ABIS equipment secure and to prevent any unauthorized use in strict compliance with the WIN-OPS Policy and Procedure Manual. OSP reserves the right to object to ABIS equipment location, security, qualifications, and number of personnel who will be operating the WIN ABIS equipment and to suspend or withhold service until such matters are corrected to be within reasonable compliance with the WIN-OPS Policy and Procedure. All persons operating or managing WIN ABIS equipment, including related network connectivity to the state's ABIS database, must pass a CJIS (Criminal Justice Information System) Security check conducted by the Oregon State Police. The CJIS Security Clearance process includes a fingerprint-based state and national criminal history record check, in accordance with OSP and FBI CJIS Security policies. OSP further reserves the right to conduct scheduled inspections with User personnel concerning the proper use and security of the WIN ABIS equipment.
- 4.5 Should User desire to relocate WIN ABIS equipment, User shall provide OSP with at least 60 days written notice in order to effect changes to communication circuits. User understands and agrees that WIN further requires the site to be inspected by OSP prior to the move for compliance with all site requirements. All costs of relocating the communication lines and equipment will be borne by the User.

- 4.6 User understands that all fingerprint and palm print minutiae data entered into the central data base shall become a permanent part of the WIN database unless purged under criteria established in the WIN-OPS Policy and Procedure Manual, or as ordered by a court holding jurisdiction, even though this Agreement may be terminated.

5. RESOLUTION OF INFORMATION TECHNOLOGY ISSUES

- 5.1 OSP and User understand and agree that on occasion there are instances where technical problems arise at the state or local level for which OSP and/or the remote agency must take full responsibility to resolve. While all parties, including WIN and the ABIS vendor, may assist in problem solving efforts resolution cannot be achieved without complete cooperation and acknowledgement by the state or remote agency that the problem may exist at the state or local level only. OSP and User agree to involve the appropriate agency IT resources to investigate and ultimately resolve connectivity or communications issues that affect the remotes ability to use ABIS services.

6. FEES AND PAYMENTS

- 6.1 Determination of User Fee. User agrees to pay the amount listed in Attachment 1 of this Agreement as a User Fee to OSP for remote access to WIN ABIS fingerprint and palm print services as well as secure network and firewall connection services.
- 6.1.1 OSP and User understand and agree that the User Fee listed in Attachment 1 of this Agreement is based on current and existing WIN and WIN vendor maintenance costs. OSP and User further understand and agree that the User Fee listed in Attachment 1 may decrease upon WIN completing its competitive solicitation and procurement with third party vendors for the continuation and expansion of its WIN ABIS system.
- 6.1.2 In the event that the User Fee listed in Attachment 1 of this Agreement decreases, OSP shall promptly notify User of the amount and effective date of the decrease. OSP and User shall execute, as soon as practicable, a written amendment of this Agreement that reflect the decrease of User's User Fee.
- 6.1.3 OSP and User understand and agree the OSP may increase the User Fee listed in Attachment 1 of this Agreement if User adds additional equipment or desires additional WIN ABIS services. In the event that User adds additional equipment or desires additional WIN ABIS services, OSP and User shall execute, as soon as practicable, a written amendment of this Agreement that reflects any increase of User's User Fee.
- 6.2 User agrees to pay all ABIS communications costs between the User and the OSP ABIS Transaction Controller located in Salem, Oregon.
- 6.3 Payment of User Fee or ABIS-related User costs, as shown in Attachment 1, are due within 30 days from the beginning date of the billing period appearing on the invoice.
- 6.4 Any prepayment of User Fee or ABIS-related User costs will be treated as prepaid revenues and will be held by OSP without interest accrual for User.
- 6.5 In the event that User fails to provide payment to OSP in accordance with agreed Service Levels and defined User Fee or ABIS-related User costs, notwithstanding non-appropriations, resulting

in account delinquency of 45 days from the beginning billing period date appearing on the invoice, OSP may commence delinquency notification.

- 6.5.1 Delinquency Notification 1. Upon delinquency of 45 days, OSP shall provide written notification to User for prompt resolution of the delinquent account. Copies of all correspondence pertaining to the delinquent account will be provided to the WIN Executive Committee.
- 6.5.2 Delinquency Notification 2. Upon delinquency of 60 days, with no resolution, OSP will issue written notification for prompt resolution of delinquent account status to the User agency director. Copies of all related correspondence will be provided to the WIN Executive Committee and WIN CEO.
- 6.5.3 Delinquency Notification 3. Upon delinquency of 90 days, with no resolution, a meeting will be arranged between OSP management, User agency director, and other User representatives responsible for fiscal policy and management, and WIN representatives as deemed appropriate. The purpose of such meeting shall be to determine feasibility of continued ABIS services under this Agreement.
- 6.6 User shall not receive services under this Agreement by any other agency or department of the State of Oregon. OSP certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the OSP's current biennial appropriation or limitation. User understands and agrees that OSP's delivery of services under this Agreement is contingent on OSP receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OSP, in the exercise of its reasonable administrative discretion, to continue to provide services under this Agreement.
- 6.7 In the event that User terminates this Agreement, or is unable or unwilling to make current or future payments under this Agreement for any reason whatsoever, User shall be responsible to OSP for all User Fee amounts past due under this Agreement, and shall be responsible to OSP for any on-going or continuing ABIS-related User costs (aka equipment maintenance costs) until such time as either a new Agreement is negotiated between the parties or the WIN ABIS equipment is physically removed from User's premises.

7. **OSP CONTACT PERSON**

- 7.1 For information concerning this Agreement, contact Major Tom Worthy, Oregon State Police, 3565 Trelstad Ave. SE, Salem, OR 97317, (503) 934-0266, FAX (503) 378-8282, e-mail tom.worthy@state.or.us
- 7.2 For information concerning ABIS Coordination, contact Patricia Whitfield, Oregon State Police, 3565 Trelstad Ave. SE, Salem, OR 97317, (503) 934-2305, FAX (503) 378-2121, e-mail patricia.whitfield@state.or.us .

8. **USER CONTACT PERSON**

- 8.1 For information concerning User's participation in this Agreement, contact Lieutenant Ken Boell, Clackamas County Sheriff's Office, 2223 S. Kaen Road, Oregon City, OR 97045, (503) 785-5116, FAX (503) 785-5147, e-mail kenboe@co.clackamas.or.us .

- 8.2 For information concerning User's ABIS Liaison, contact Sergeant Dan Kraus, Clackamas County Sheriff's Office, 2223 S. Kaen Road, Oregon City, OR 97045, (503) 969-2690, e-mail dankra@co.clackamas.or.us .

9. NOTICE

- 9.1 Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the individual specified in 7.1 or 8.1 for that person's respective agency, or deposited for first class delivery, postage fully prepaid, addressed to such person at the address set forth above in 7.1 or 8.1. Either party may, by written notice, change the person or address for purposes of this section. Upon such notice, the person and address so specified shall become, for all purposes, the address for future notice to such party.

10. AMENDMENTS

- 10.1 OSP and User may amend this Agreement at any time only by written amendment executed by duly authorized representatives of each party.

11. ASSIGNMENT

- 11.1 User shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without prior written approval of OSP.

12. CONTRIBUTION

- 12.1 IF ANY THIRD PARTY MAKES ANY CLAIM OR BRINGS ANY ACTION, SUIT OR PROCEEDING ALLEGING A TORT AS NOW OR HEREAFTER DEFINED IN ORS 30.260 - 30.300 ("THIRD PARTY CLAIM") AGAINST A PARTY (THE "NOTIFIED PARTY") WITH RESPECT TO WHICH THE OTHER PARTY ("OTHER PARTY") MAY HAVE LIABILITY, THE NOTIFIED PARTY MUST PROMPTLY NOTIFY THE OTHER PARTY IN WRITING OF THE THIRD PARTY CLAIM AND DELIVER TO THE OTHER PARTY A COPY OF THE CLAIM, PROCESS, AND ALL LEGAL PLEADINGS WITH RESPECT TO THE THIRD PARTY CLAIM. EITHER PARTY IS ENTITLED TO PARTICIPATE IN THE DEFENSE OF A THIRD PARTY CLAIM, AND TO DEFEND A THIRD PARTY CLAIM WITH COUNSEL OF ITS OWN CHOOSING. RECEIPT BY THE OTHER PARTY OF THE NOTICE AND COPIES REQUIRED IN THIS PARAGRAPH AND MEANINGFUL OPPORTUNITY FOR THE OTHER PARTY TO PARTICIPATE IN THE INVESTIGATION, DEFENSE AND SETTLEMENT OF THE THIRD PARTY CLAIM WITH COUNSEL OF ITS OWN CHOOSING ARE CONDITIONS PRECEDENT TO THE OTHER PARTY'S LIABILITY WITH RESPECT TO THE THIRD PARTY CLAIM.

- 12.2 WITH RESPECT TO A THIRD PARTY CLAIM FOR WHICH OSP IS JOINTLY LIABLE WITH THE USER (OR WOULD BE IF JOINED IN THE THIRD PARTY CLAIM), OSP 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 USER IN SUCH PROPORTION AS IS APPROPRIATE TO REFLECT THE RELATIVE FAULT OF OSP ON THE ONE HAND AND OF THE USER 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 OSP ON THE ONE HAND AND OF THE USER 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. OSP'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.

- 12.3. WITH RESPECT TO A THIRD PARTY CLAIM FOR WHICH THE USER IS JOINTLY LIABLE WITH OSP (OR WOULD BE IF JOINED IN THE THIRD PARTY CLAIM), THE USER 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 OSP IN SUCH PROPORTION AS IS APPROPRIATE TO REFLECT THE RELATIVE FAULT OF THE USER ON THE ONE HAND AND OF OSP 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 USER ON THE ONE HAND AND OSP 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 USER'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.

13. COMPLIANCE WITH LAWS

- 13.1 User shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement. Without limiting the generality of the foregoing, User expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. OSP's performance under the Agreement is conditioned upon User's compliance with the provisions of ORS 279B.220,

279B.225, 279B.230, 279B.235 and 279B.270 which are incorporated by reference herein. Where applicable, User shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

14. GOVERNING LAW

14.1 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 OSP (and/or any other agency or department of the State of Oregon) and User that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is 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. **USER, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

15. EFFECTIVE DATE; TERMINATION

- 15.1 This Agreement is effective as of July 1, 2018 and shall expire on June 30, 2023. This Agreement may be terminated prior to June 30, 2023 by either party upon 30 days written notice of such termination to the other party.
- 15.2 The provisions of sections 4.6, 6.7, and 12 are permanent with respect to acts, circumstances and conditions arising during the effective term of this Agreement and thereby governed by such sections. Sections 4.6, 6.7, and 12 shall, to the extent described in this section, survive the termination or expiration of this Agreement.
- 15.3 The maximum, not-to-exceed compensation payable to OSP by User under this Agreement, which includes any allowable expenses, is \$64,950. User will not pay OSP, and OSP will not provide ABIS services, for any amount in excess of the not-to-exceed compensation of this Agreement, except as agreed to in writing by amendment to this Agreement.

16. COMPLETE AGREEMENT

- 16.1 This Agreement represents the complete understanding of the parties with respect to all matters relating to the subject matter hereof. No evidence of modification, amendment, prior agreement, representation, declaration, clarification or negotiation shall be considered unless the same is in the form of an amendment pursuant to section 10.1 hereof.
- 16.2 As of the effective date of this Agreement, any and all prior agreements between the parties related to fingerprint and palm print image, data record, and respective minutiae data reading, digitizing, matching, storing, and retrieval services are terminated.

17. SURVIVAL.

17.1 All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections 15.2.

18. COUNTERPARTS.

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

19. SIGNATURES.

IN WITNESS WHEREOF the parties have caused this Agreement to be signed in their Respective names by their duly authorized representatives as of the dates set forth below.

STATE OF OREGON, BY AND
THROUGH ITS DEPARTMENT
OF STATE POLICE

CLACKAMAS COUNTY, OREGON
FOR THE BENEFIT OF ITS SHERIFF'S
OFFICE

By: _____
Major Tom Worthy

By: _____
Authorized Signature

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED FOR LEGAL SUFFICIENCY:

By: _____
Senior Assistant Attorney General

By:  _____
Assistant County Counsel

Date: _____

Date: 6/25/18

Attachment 1 - User Fee

OSP/Clackamas County Sheriff's Office IGA - OSP ABIS # IGA-482-2018
 ABIS Equipment and Maintenance Costs
 July 1, 2018 - June 30, 2023

Ongoing Costs July 2018 - June 2019	Monthly	Quarterly	Yearly
Equipment Maintenance	\$ 877.50	\$ 2,632.50	\$ 10,530.00
Network/Firewall Services	\$ 365.00	\$ 1,095.00	\$ 4,380.00
Total Clackamas Co SO Costs	\$ 1,242.50	\$ 3,727.50	\$ 14,910.00

Ongoing Costs July 2019 - June 2023	Monthly	Quarterly	Yearly
Equipment Maintenance	\$ 877.50	\$ 2,632.50	\$ 10,530.00
Network/Firewall Services	\$ 165.00	\$ 495.00	\$ 1,980.00
Total Clackamas Co SO Costs	\$ 1,042.50	\$ 3,127.50	\$ 12,510.00

Summary of Equipment Maintenance (1)	Monthly Breakdown	IGA 5yr Total
Global Workstation - Latent (GWS-L)	\$ 525.00	\$ 64,950.00
NIST Archive Print Server/Printer (PS)	\$ 352.50	
	\$ 877.50	

Summary of Network/Firewall (2)	Monthly Breakdown
Nlets Provided 24/7 Secure Network Services July2018-June2019	\$ 365.00
Nlets Provided 24/7 Secure Network Services July2019-June2023	\$ 165.00

(1) Equipment maintenance costs are passed to agency based on additional and upgraded equipment from original ABIS system.
 (2) WIN Network charges for Oregon remote sites reduced effective July 1, 2019 as part of NEC contract renewal



September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order
Appointing a Clackamas County Planning Director

Purpose/Outcome	Former Clackamas County Planning Director Mike McCallister retired on September 6, 2018. ORS 215.042 requires the Board of County Commissioners to appoint a person to perform the duties of the County Planning Director.
Dollar Amount and Fiscal Impact	N/A
Funding Source	The Planning Director position is funded through the General Fund. No additional funding has been allocated for the assumption of additional duties by the Director of the Department of Transportation and Development.
Duration	September 20, 2018 and continuing until a successor is appointed.
Previous Board Action/Review	None.
Strategic Plan Alignment	<ul style="list-style-type: none">• Build public trust through good government
Contact Person	Don Krupp, County Administrator, (503) 655-8581

Clackamas County Mike McCallister retired on September 6, 2018. Mike served as the Clackamas County Planning Director, with honor and distinction for the past ____ years.

State law requires the Board of County Commissioners to appoint an individual to serve as planning director for the County. The appointee shall hold office until a successor is appointed by the Board.

Dan Johnson, as the Director of the Department of Transportation and Development, has been recommended to fill this position in the interim. County staff recently undertook a recruitment effort but were ultimately unable to fill the position. The Department anticipates restarting the recruitment process prior to the end of the year with the goal of having a permanent Planning Director in place by early 2019.

RECOMMENDATION

Staff respectfully recommends the Board approve the attached order formally appointing Dan Johnson as the County Planning Director, effective immediately and continuing until a successor is appointed by the Board.

Sincerely,

Don Krupp
Clackamas County Administrator

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

In the Matter of the Appointment of
a Interim County Planning Director
to Fill a Vacancy



Board Order No. _____
Page 1 of 1

Whereas, this matter coming before the Board of County Commissioners for consideration at its regularly scheduled public Business Meeting on Thursday, September 20, 2018, is a request to appoint a County Planning Director for Clackamas County; and

Whereas, it appearing to the Board that Mike McCallister, the former Planning Director for Clackamas County has retired effective September 6, 2018; and

Whereas, it further appearing that ORS 215.042 requires the Board of County Commissioners to appoint a person to perform the duties of the County Planning Director; and

Whereas, it also appearing that Dan Johnson currently serves as Director of the Department of Transportation and Development, and has the necessary qualifications to be County Planning Director until a successor can be appointed by the Board.

NOW, THEREFORE IT IS HEREBY ORDERED as follows:

1. The Board finds that the appointment of a County Planning Director is required by ORS 215.042.
2. The Board finds that Dan Johnson has the necessary qualification to be the County Planning Director.
3. The appointment of Dan Johnson as the County Interim Planning Director is approved effective September 20, 2018, to continue until that time that a successor is appointed by the Board.

DATED this 20th day of September, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



Capt. Jenna Morrison
Director

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

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract Amendment #3 / Renewal #2 with David J Schuessler LPC PC dba
Innovative Counseling Enterprises for Sex Offender Treatment Services

Purpose/Outcomes	Provide outpatient sex offender treatment services.
Dollar Amount and Fiscal Impact	The original contract value is \$30,000 per contract year. Amendment #2 added an additional \$10,000 for that contract year only. The maximum contract value is \$160,000.
Funding Source	State CCA Grant-in-Aid, State Inmate Welfare Fund, and General Fund
Duration	The contract will terminate on September 30, 2021
Previous Board Action	No previous BCC action.
Strategic Plan Alignment	Ensure Safe, Healthy and Secure Communities.
Contact Person	Capt. Jenna Morrison, Director, Community Corrections – 503-655-8725

BACKGROUND

David L. Schuessler has provided outpatient sex offender treatment services to adult offenders under supervision of Clackamas County Community Corrections since 2012. Innovative Counseling Enterprises’ goals are to reduce client risk to reoffend sexually by focusing treatment work on the dynamic risk factors identified on the Stable 2007 assessment and to improve the overall wellness of client lives. Clients are referred to treatment by their supervising officer and treated individually and/or in a group setting. Treatment is subsidized based on financial need.

PROCUREMENT PROCESS:

This Request for Proposals project advertised in accordance with ORS and LCRB Rules on June 29, 2016 and proposals were opened on July 20, 2016. Proposals were received and a notice of intent to award after a full evaluation of the received proposals was publicly posted on September 22, 2016.

County Counsel has reviewed and approved this contract.

RECOMMENDATION:

Staff recommends the Board approve and sign the contract renewal for Outpatient Sex Offender Treatment Services with David L. Schuessler, LPC PC dba Innovative Counseling Enterprises.

Respectfully submitted,

Brent Taylor, Community Corrections Supervisor
Clackamas County Community Corrections

Placed on the _____ Agenda by the Purchasing Division

AMENDMENT #3 / RENEWAL #2

**TO THE CONTRACT DOCUMENTS WITH DAVID J. SCHUESSLER LPC PC DBA
INNOVATIVE COUNSELING ENTERPRISES FOR THE OUTPATIENT SEX OFFENDER
TREATMENT SERVICES**

This Amendment #3 / Renewal #2 is entered into between David J. Schuessler LPC PC dba Innovative Counseling Enterprises (“Contractor”) and the Clackamas County (“County”) and it shall become part of the Contract documents entered into and between both parties on November 10, 2016 (“Contract”).

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

- Section I. **COMPENSATION** is hereby amended as follows:
County is exercising the option to renew the remaining three (3) optional 1- year renewals. The Contract expiration date is hereby changed from September 30, 2018 to **September 30, 2021**. The annual maximum compensation remains at \$30,000.00 per Contract year, defined as October 1 to September 30.

Original Amount	\$30,000.00
Amendment #1	\$10,000.00
Amendment #2/Renewal #1	\$30,000.00
<u>Amendment #3/Renewal #2</u>	<u>\$90,000.00</u>
Total Contract Amount	\$160,000.00

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #3 / Renewal #2, effective upon the date of the last signature below.

David J. Schuessler LPC PC
Db a Innovative Counseling Enterprises
2920 SW Dolph Court, Ste. 1
Portland OR 97219

Clackamas County

Authorized Signature

Chair

Name / Title (Printed)

Recording Secretary

Date

Date

571464-91 DBC / Oregon
Oregon Business Registry #

Approved as to Form

County Counsel

Date



September 20, 2018

Board of County Commissioners

Clackamas County

Members of the Board:

Approval of a Grant and Cooperative Agreement L18AC00108 between

Clackamas County and the Department of Interior Bureau of Land Management Oregon State Office

Purpose/Outcomes	Business & Community Services (BCS) Forest and Timber Division manages the Dump Stoppers program, which provides illegal dumping prevention and cleanup services on county and federal forest lands.
Dollar Amount and Fiscal Impact	\$30,000 of BLM Oregon State funds has been awarded under a new grant agreement number L18AC00108. There are no matching funds required for this grant.
Funding Source	BLM – OR-ST OFC Proc Mgmt Br(OR952)
Duration	September 2018 through September 2021
Previous Board Action	None
Strategic Plan Alignment	1. Honor, Utilize, Promote and Invest in our Natural Resources 2. Enhance Park and Forest Health.
Contact Person	Rick Gruen, Manager, BCS – Forest and Timber Division
Contract No.	L18AC00108

BACKGROUND: The Dump Stoppers program was created in 2003 to address the chronic and growing problem of waste dumping on forested lands in Clackamas County. The program goals are to: 1) clean up identified dump sites on 790,000 acres of program partner lands; 2) enforce anti-dumping laws; and 3) educate the public about the negative consequences of illegal dumping. Funds through the Bureau of Land Management provide for Dump Stoppers staff labor, vehicle operation costs, and abandoned vehicle tow expenses.

RECOMMENDATION: Staff recommends Board approval of BLM Grant and Cooperative Agreement L18AC00108 and authorizes Laura Zentner, BCS Director, to sign on behalf of Clackamas County.

Respectfully submitted,

Laura Zentner, Director
Business & Community Services

Grant and Cooperative Agreement

CHOOSE ONE:

- COOPERATIVE AGREEMENT
 GRANT

CHOOSE ONE: EDUCATION FACILITIES RESEARCH SDCR TRAINING

1. GRANT/COOPERATIVE AGREEMENT NUMBER L18AC00108		2. SUPPLEMENT NUMBER		3. EFFECTIVE DATE 09/08/2018		4. COMPLETION DATE 09/08/2021			
5. ISSUED TO NAME/ADDRESS OF RECIPIENT (No., Street, City/County, State, Zip) CLACKAMAS, COUNTY OF Attn: Samantha Wolfe 150 Beavercreek Road OREGON CITY OR 970454302				6. ISSUED BY BLM OR-ST OFC PROC MGMT BR (OR952) Mailing Address: 1220 SW 3rd Avenue, 12th Floor PORTLAND OR 97204					
7. TAXPAYER IDENTIFICATION NO. (TIN)				9. PRINCIPAL INVESTIGATOR/ORGANIZATION'S PROJECT OR PROGRAM MGR. (Name & Phone) Samantha Wolfe 503-742-4685 swolfe@clackamas.us					
8. COMMERCIAL & GOVERNMENT ENTITY (CAGE) NO. 3UFZ9									
10. RESEARCH, PROJECT OR PROGRAM TITLE BLM OR/WA Clackamas County Dumpstoppers									
11. PURPOSE See Schedule									
12. PERIOD OF PERFORMANCE (Approximately) 09/08/2018 through 09/08/2021									
13A.		AWARD HISTORY			13B.		FUNDING HISTORY		
PREVIOUS		\$0.00			PREVIOUS		\$0.00		
THIS ACTION		\$30,000.00			THIS ACTION		\$30,000.00		
CASH SHARE		\$0.00			TOTAL		\$30,000.00		
NON-CASH SHARE		\$0.00							
RECIPIENT SHARE		\$0.00							
TOTAL		\$30,000.00							
14. ACCOUNTING AND APPROPRIATION DATA 01									
PURCHASE REQUEST NO.		JOB ORDER NO.			AMOUNT		STATUS		
0020159939									
15. POINTS OF CONTACT									
	NAME		MAIL STOP	TELEPHONE		E-MAIL ADDRESS			
TECHNICAL OFFICER	PO Terry Fennell			503-375-5622		tfennell@blm.gov			
NEGOTIATOR									
ADMINISTRATOR	Stephanie McBride			503-808-6243		smcbride@blm.gov			
PAYMENTS									
16. THIS AWARD IS MADE UNDER THE AUTHORITY OF: Federal Land Policy and Management Act of 1976 (FLPMA), 43 USC 1737 (b), PL 94-579, as amended.									
17. APPLICABLE STATEMENT(S), IF CHECKED: <input type="checkbox"/> NO CHANGE IS MADE TO EXISTING PROVISIONS <input type="checkbox"/> FDP TERMS AND CONDITIONS AND THE AGENCY-SPECIFIC REQUIREMENTS APPLY TO THIS GRANT				18. APPLICABLE ENCLOSURE(S), IF CHECKED: <input type="checkbox"/> PROVISIONS <input type="checkbox"/> SPECIAL CONDITIONS <input type="checkbox"/> REQUIRED PUBLICATIONS AND REPORTS					
UNITED STATES OF AMERICA				COOPERATIVE AGREEMENT RECIPIENT					
CONTRACTING/GRANT OFFICER Eleni Sarris		DATE 09/09/2018		AUTHORIZED REPRESENTATIVE		DATE			

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
	<p>CFDA Number: 15.233</p> <p>DUNS Number: 096992656</p> <p>Funding Opportunity Number: L18AS00022</p> <p>Required Cost Sharing/Matching: N/A</p> <p>Indirect Cost Rate: None</p> <p>Required Periodic Status Reporting</p> <p style="padding-left: 20px;">Performance Reports: Annual</p> <p style="padding-left: 20px;">SF425 Financial Reports: Annual</p> <p style="padding-left: 20px;">E-mail Reports To: blm_or_so_fa_reports@blm.gov</p> <p>Refer to Attachment No. 1 for Award Terms and Conditions</p> <p>11. PURPOSE:</p> <p>This cooperative agreement is made and entered into by the Department of the Interior, Bureau of Land Management Oregon State Office (BLM), and Clackamas County, the recipient, for the purpose of BLM OR/WA Clackamas County Dumpstoppers, transferring something of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States.</p> <p>BLM substantial involvement by the BLM Program Officer (PO) will be collaborate with the Recipient to manage all stages of project development, implementation, and evaluation. Responsibility for project management, control, and direction will be shared by the recipient and the BLM, however the BLM will have the right to intervene by modifying the project management plan if the project is not staying on schedule and/or technical issues arise.</p> <p>Legacy Doc #: BLM</p> <p>Account Assignm: K G/L Account: 6100.411C0</p> <p>Business Area: L000 Commitment Item: 411C00 Cost Continued ...</p>				

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
00010	<p>Center: LLORN01000 Functional Area: L63200000.DD0000 Fund: 18XL1116AF Fund Center: LLORN01000 PR Acct Assign: 01 Period of Performance: 09/08/2018 to 09/08/2021</p> <p>Line #261 Dumpsite Prevention Obligated Amount: \$30,000.00</p> <p>KEY OFFICIALS</p> <p>Grants Management Specialist (GMS) Stephanie McBride Bureau of Land Management, OR/WA State Office PO Box 2965, Portland OR 97208 Telephone: 503-808-6243 Email: smcbride@blm.gov</p> <p>Program Officer (PO) Terry Fennell Bureau of Land Management 1717 Fabry Road SE Salem OR 97306 Telephone: 503-375-5678 Fax: 503-375-5622 E-mail: tfennell@blm.gov</p> <p>Award Recipient Program Planner Samantha Wolfe Clackamas County 150 Beaver creek Road Oregon City, OR 97045-4302 Telephone: 503-742-4685 Email: swolfe@clackamas.us</p> <p>Award Recipient Administrative Analyst, Sr. Christina Dannenbring Clackamas County Continued ...</p>				30,000.00

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
	<p>150 Beaver creek Road Oregon City, OR 97045-4302 Telephone: 503-742-4663 Email: cdannenbring@clackamas.us</p> <p>Award Recipient Manager Rick Gruen Clackamas County 150 Beaver creek Road Oregon City, OR 97045-4302 Telephone: 503-742-4345 Email: rgruen@Clackamas.us</p> <p>The total amount of award: \$30,000.00. The obligation for this award is \$30,000.00.</p>				



September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Contract with CXT, Inc. for the Purchase of a
Precast Concrete Restroom at Barton Park**

Purpose / Outcome	Oregon Parks & Recreation Department awarded a County Opportunity Local Government Grant to Business & Community Services County Parks for the purchase and installation of a pre-cast concrete restroom to replace the current restroom at Barton Park which has deteriorated beyond useful life.
Fiscal Impact	\$ 213,218.70 for the fabrication, delivery, and install of the CXT unit.
Funding Source	BCS - County Parks capital construction funds (50%); OPRD County Opportunity Grant funds (50%).
Duration	Upon approval through October 31, 2018
Strategic Plan Alignment	1. Build Public Trust Through Good Government 2. Honor, Utilize, Promote and Invest in our Natural Resources
Previous Board Action	BCC approval to accept Local Government Grant LG17-012 for the Barton Park Day Use Restroom Replacement Project Room from Oregon Parks and Recreation Department on September 21, 2017.
Contact Person	Rick Gruen, BCS - County Parks Manager, 503-742-4345

Background:

Clackamas County's Barton Park is located between Oregon City and Estacada just off of Hwy 224. The 116 acre facility site provides 112 overnight camp sites, 7 day use picnic shelters, and a public boat ramp to access the Clackamas River. The existing restroom is in a deteriorated condition, and needs ADA compliance upgrades. Replacement of the restroom will provide additional capacity, ADA compliance, safe and modern amenities. Oregon Parks and Recreation Department awarded a Local Government Grant to County Parks for the purpose of purchasing a new restroom, which included consideration of CXT, Inc. as the provider of a pre-cast concrete restroom building. County Counsel has previously reviewed and approved this Grant Agreement.

Procurement Process:

The purchase of this CXT Precast Concrete Restroom will be through the State of Oregon Cooperative Contract #1542. County Counsel has reviewed and approved this contract.

Recommendation:

Staff respectfully recommends the Board approve the contract with CXT, Inc. for the fabrication, delivery and installation of a pre-cast concrete restroom building.

Sincerely,

Laura Zentner, Director
Business & Community Services

Placed on the _____ Agenda by the Procurement Division.



CLACKAMAS COUNTY GOODS AND SERVICES CONTRACT

This Goods and Services Contract (this "Contract") is entered into between **CXT Incorporated** ("Contractor"), and Clackamas County, a political subdivisions of the State of Oregon ("County") on behalf of Business Community Services-Parks for the purposes of providing a **precast concrete restroom delivered to Barton Park**.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect until **February 28, 2019**. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

II. SCOPE OF WORK

This Contract covers the Scope of Work as described in the Scope of Work, attached and hereby incorporated by reference as Attachment "A." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, and Attachment "A". Work shall be performed in accordance with a schedule approved by the County. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The County's Representative for this contract is: Rick Gruen.

III. COMPENSATION

- 1. PAYMENT.** The County agrees to compensate the Contractor on a fixed fee basis as detailed in this Contract. The maximum compensation authorized under this Contract shall not exceed **two hundred thirteen thousand two hundred eighteen dollars and seventy cents (\$213,218.70)**.
- 2. TRAVEL EXPENSE REIMBURSEMENT.** Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
- 3. INVOICES.** Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed monthly (unless a different payment period is outlined in Attachment A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute ("ORS") 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices shall be submitted to the County Representative at: Clackamas County BCS, 150 Beavercreek Road, Oregon City, Oregon 97045 or via email at cdannenbring@clackamas.us.

IV. CONTRACT PROVISIONS

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their

duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

2. AVAILABILITY OF FUNDS. County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.

3. CAPTIONS. The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.

4. COMPLIANCE WITH APPLICABLE LAW. Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

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

6. GOVERNING LAW. This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

7. HAZARD COMMUNICATION. Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.

8. INDEMNITY, RESPONSIBILITY FOR DAMAGES. Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.

9. INDEPENDENT CONTRACTOR STATUS. The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to the County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Oregon Public Employees Retirement System); and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656.

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

10. INSURANCE. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. Contractor shall provide insurance as indicated below:

A. COMMERCIAL GENERAL LIABILITY

The Contractor agrees to furnish the County evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The County, at its option, may require a complete copy of the above policy.

B. AUTOMOBILE LIABILITY

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

C. Contractor shall provide County a certificate of insurance naming the Clackamas County and its officers, elected officials, agents, and employees as an additional insured. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include Clackamas

County and its officers, elected officials, agents, and employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the 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 with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

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

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

F. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the Contractor to the County. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

G. Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County.

11. LIMITATION OF LIABILITIES. Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

12. NOTICES. Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

13. OWNERSHIP OF WORK PRODUCT. All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or

doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

14. REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- a. **Performance Warranty.** Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. **Service Warranty.** Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional standards. Contractor's liability and County's remedy under this services warranty are limited to Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

15. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections of Section IV: 1, 6, 8, 11, 13, 14, 15, and 21.

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

17. SUBCONTRACTS AND ASSIGNMENTS. Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

18. SUCCESSORS IN INTEREST. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

19. TAX COMPLIANCE CERTIFICATION. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and

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

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

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

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

anyone County designates, all documents, research or objects or other tangible things needed to complete the work.

22. NO THIRD PARTY BENEFICIARIES. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

23. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence under this Contract.

24. FOREIGN CONTRACTOR. If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

25. FORCE MAJEURE. Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

26. WAIVER. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

27. COMPLIANCE. Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract: (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished. (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. (C) The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. (D) The Contractor shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

28. DELIVERY. All deliveries shall be F.O.B. destination with all transportation and handing charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.

**ATTACHMENT A
SCOPE OF WORK**



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Amendment #1 for a Service Level Agreement between
Clackamas Broadband eXchange and The City of Sandy

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for an amendment for an additional dark fiber connection for the City of Sandy.
Dollar Amount and Fiscal Impact	The City of Sandy will pay a recurring lease fee of \$255/month for the connection.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by the City of Sandy.
Duration	Effective upon signature by the board the amended connection can be renewed on a year to year basis.
Previous Board Action	Board previously approved CBX to provide a fiber connection to the City of Sandy.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

CBX is proposing to provide a dark fiber connection for the City of Sandy from Clackamas Education Service District to the Concord School in Oak Grove.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this Amendment #1 of the City of Sandy's Service Level Agreement. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This Service Level Agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings
CIO Technology Services

AMENDMENT #1

TO THE CLACKAMAS COUNTY/CITY OF SANDY FIBER OPTIC SERVICE LEVEL AGREEMENT

This Amendment #1 is entered into by and between the City of Sandy (“Customer”) and the Clackamas County (“County”) and it shall become part of the Fiber Optic Service Level Agreement entered into by and between the parties on March 15, 2018 (“Contract”).

The Purpose of the Amendment #1 is to make several changes to Appendix A, Service and Rate Schedule, of the Contract.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed upon that Appendix A is hereby amended as follows:

1. Appendix A, Section 4, Annual Recurring Charges, is amended to add the following additional service location:

From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Monthly Rate (\$)
3 Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Concord Elementary School 3811 SE Concord Rd. Milwaukie, Oregon 97267	One Pair (two) dark fibers	\$255.00

2. Appendix A, Section 5, Nonrecurring Charges, is amended to add the following nonrecurring charge:

From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Amount (\$)
2 Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Concord Elementary School 3811 SE Concord Rd. Milwaukie, Oregon 97267	Construction	\$0.00

3. Appendix A, Section 7, Annual Consumer Price Index (CPI) Adjustments, is deleted and replaced with the following:

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the West Region (West City Size B/C 2.5 Million or less) Consumer Price Index of the US Dept. of Labor, Bureau of Labor Statistics (<https://www.bls.gov/regions/west/data/xg-tables/ro9xg01.htm>), based upon the rate of change as stated from the last month reported to the same month of the preceding year. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the

information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

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

City of Sandy

Clackamas County

Authorized Signature

Authorized Signature

Name / Title (Printed)

Name/Title (Printed)

Date

Date



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

September 20, 2018

Board of County Commissioners
Development Agency Board

Members of the Board:

Approving the Conveyance of Development Agency Assets to Clackamas County, By and Through the
Department of Tourism and Cultural Affairs Related to the Mt. Hood Cultural Center and Museum

Purpose/Outcome	By execution of the agreements, all rights, title, interest and responsibilities related to the Mt. Hood Cultural Center and Museum and Barlow Road Information Kiosk are transferred from the Development Agency to the County by and through the Department of Tourism and Cultural Affairs.
Dollar Amount and Fiscal Impact	No Fiscal Impact. All operations and maintenance responsibilities related to the museum and kiosk will remain with the operators.
Funding Source	No Fiscal Impact.
Duration	The Owner Participation Development Agreement being assigned is in effect until March 30, 2056.
Previous Board Action/Review	Board direction to proceed with the conveyance of assets at a Policy Session on January 23, 2018.
Strategic Plan Alignment	This transaction will build public trust through good government
Contact Person	David Queener, Program Supervisor – Development Agency 503-742-4322 or davidque@co.clackamas.or.us

BACKGROUND:

In 2001, the Development Agency entered into an Owner Participation and Development Agreement (OPDA) with the Mt. Hood Cultural Center and Museum where the Agency provided funds in the form of a loan to assist in the purchase of property for a new museum in Government Camp. This agreement was amended in 2006 and again in 2010 to provide additional funding in the form of a loan to pay off the balance on the original acquisition and for building improvements. As a result, the Museum building and property became an asset wholly owned by the Agency. The OPDA is for a period of 50 years, terminating in 2056 or until such time that the museum operators write down the loan. In addition to this asset, the Agency also has the Barlow Road Information Kiosk located across from the museum that was constructed with urban renewal funds.

Per ORS 457, which governs Urban Renewal Districts, the Agency cannot retain any assets completed as part of the urban renewal plan implementation. This statute allows urban renewal agencies to make

real property available to other public agencies so long as the land is used consistent with the purposes designated in the urban renewal plan. More specifically, Section 630 of the Government Camp Village Revitalization Plan permits the Agency to transfer property to other public agencies at no charge, so long as the property will be used in accordance with the Plan.

The County, by and through the Department of Tourism and Cultural Affairs, has agreed to assume ownership of the museum and kiosk until such time that the museum operators write down the loan currently in place. To ensure the Department of Tourism and Cultural Affairs can assume the responsibilities of the Agency as the owner of the museum, it is also necessary for the Development Agency to assign its interest in the existing lease with the Mt. Hood Cultural Center and Museum and its interest in an easement with Charlomont Hill, LLC related to a pathway serving the museum to the Department of Tourism and Cultural Affairs.

No undeveloped land is being transferred. All of the assets have been developed and are fulfilling the purposes for which they were intended. All operations and maintenance responsibilities will remain with the museum operators. Other than costs associated with minimal staff time to ensure compliance with obligations outlined in the agreements, there should be no costs incurred by the Tourism Department.

This information has been reviewed by County Counsel.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners, in its capacity as the governing body of the Clackamas County Development Agency, approve the documents necessary to convey Agency assets to the County by and through Department of Tourism and Cultural Affairs.

Respectfully submitted,

Dave Queener
Development Agency Program Supervisor

Attachments:

Assignment of Owner Participation Development Agreement
Assignment of Agreement
Assignment of Lease
Bargain and Sale Deed
Bill of Sale

ASSIGNMENT OF OWNER PARTICIPANT AND DEVELOPMENT AGREEMENT UNDER GOVERNMENT CAMP VILLAGE REVITALIZATION PLAN & REPORT

THIS ASSIGNMENT OF OWNER PARTICIPANT AND DEVELOPMENT AGREEMENT UNDER GOVERNMENT CAMP VILLAGE REVITALIZATION PLAN & REPORT is dated September 20, 2018, and is between Clackamas County Development Agency, "**Assignor,**" and Clackamas County, by and through its Tourism & Cultural Affairs department, "**Assignee.**"

RECITALS:

- A.** Assignor is the "Agency" under that certain Owner Participant and Development Agreement Under Government Camp Village Revitalization Plan & Report with the Mt. Hood Cultural Center and Museum, an Oregon nonprofit corporation, as the "Owner Participant," dated August 23, 2001 (the "**First OPDA**");
- B.** On March 30, 2006, Agency and Owner Participant entered into the Owner Participant and Development Agreement Under Government Camp Village Revitalization Plan & Report (Second) (the "**Second OPDA**") which was recorded on April 6, 2006 as document no. 2006-030759 of the Clackamas County, Oregon Records to provide additional funding to the Owner Participant;
- C.** The Agency and Owner Participant entered into an amendment to the Second OPDA on August 19, 2010, which increased the amount of funding provided by the Agency to the Owner Participant (the First OPDA, the Second OPDA and this amendment are collectively referred to herein as the "**Agreement**");
- D.** The "Subject Premises" which is the subject of the Agreement consist of a building and associated facilities located at 88900 Government Camp Loop, Government Camp, OR 97028, as more particularly described in the Agreement";
- E.** The Subject Premises are used as a year-round museum, cultural facility and community center;
- F.** Contemporaneous with the execution of this Agreement, Assignor deeded property to Assignee on September 6, 2018
- G.** Assignee, having reviewed and become familiar with all of the terms and conditions of the Agreement, now wishes to acquire Assignor's interest in the Subject Premises, and is willing to assume all of the obligations of the Agency under the Agreement and in and to the Subject Premises.

NOW, THEREFORE in consideration of the mutual promises contained herein, and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee covenant and agree as follows:

1. Assignment

a. Assignment of Interest

Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's interest as Agency in and to the Agreement and in and to the Subject Premises.

b. Representation

Assignor warrants that the Agreement is in good standing according to its terms and that the Agreement has not been amended or modified, except as set forth in the recitals above.

c. Consideration

The consideration for this assignment consists of Assignee's acceptance of fee title of the Subject Premises and assumption of all liability for performance of the Agreement.

2. Assumption

a. Assumption of Interest

Assignee hereby accepts the foregoing assignment by Assignor and assumes responsibility for performance of all obligations of Assignor as Agency under the Agreement.

b. Indemnification

Assignee agrees to hold harmless, indemnify, and defend Assignor its officers, elected officials, agents and employees from and against any loss, claim, or liability suffered by or asserted against Assignor as a result of Assignee's liability to fully perform the Agreement at any time hereafter.

c. As-Is

Assignee has inspected the Subject Premises and accepts the same in "AS IS" condition.

d. Restriction on Use and Transfer

While the Agreement is in effect, Assignee agrees that it shall not transfer the Subject Premises or use the Subject Premises for speculative purposes. Assignee further agrees that the Subject Premises shall continue to operate consistent in all respects with the Government Camp Village Revitalization Plan. Assignor may demand Assignee reconvey the Subject Premises to Assignor, or Assignor's successor entity, where Assignee defaults under the terms of this provision. Assignor reserves all rights to enforce this provision.

3. General Provisions

a. Oregon Law and Forum

This Assignment shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

b. Applicable Law

The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

c. Non-Exclusive Rights and Remedies

Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Assignment shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

d. Debt Limitation

This Assignment 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.

e. Severability

If any provision of this Assignment is found to be unconstitutional, illegal or unenforceable, this Assignment 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 Assignment without such provision to give effect to the maximum extent possible the intentions of the Parties.

f. Integration, Amendment and Waiver

Except as otherwise set forth herein, this Assignment constitutes the entire agreement between the Parties on the matter of the Assignment. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Assignment. No waiver, consent, modification or change of terms of this Assignment shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Assignment shall not constitute a waiver by such Party of that or any other provision.

g. Counterparts

This Assignment may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 Assignment so executed shall constitute an original.

h. Authority

Each Party represents that it has the authority to enter into this Assignment on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Assignment.

i. Necessary Acts

Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Assignment

IN WITNESS WHEREOF, the undersigned have executed this Assignment effective as of the date first above written.

ASSIGNOR:

Clackamas County Development Agency

Chair

Dated: _____

ASSIGNEE:

Clackamas County

Chair

Dated: _____

ASSIGNMENT OF AGREEMENT

THIS ASSIGNMENT OF LEASE is dated September 20, 2018, and is between Clackamas County Development Agency, "**Assignor**," and Clackamas County, by and through its Tourism & Cultural Affairs department, "**Assignee**."

RECITALS:

- A. Assignor and the Mt. Hood Cultural Center and Museum, an Oregon nonprofit corporation, (the "**Museum**"), are parties to a certain Assignment of Lease dated March 30, 2006, which was recorded on April 6, 2006 as document no. 2006-030761 of the Clackamas County, Oregon, Records (the "**Agreement**");
- B. The "Leased Premises" which are the subject of a Lease between the Tenant and Charlomont Hill, LLC, dated February, 2006 (the "**Lease**") consist of vacant land that is improved with a pathway that is located between the property at 88900 Government Camp Loop, Government Camp, OR 97028, and the right of way of Government Camp Loop, as more particularly described in the Lease and the Agreement;
- C. The Leased Premises are used to provide access to the year-round museum, cultural facility and community center located on the adjacent parcel;
- D. Assignee, having reviewed and become familiar with all of the terms and conditions of the Agreement, now wishes to acquire Assignor's interest in the Leased Premises, and is willing to assume all of the rights and obligations of the Assignor as Agency under the Agreement.

NOW, THEREFORE in consideration of the mutual promises contained herein, and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee covenant and agree as follows:

1. Assignment

a. Assignment of Interest

Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's interest as Agency in and to the Agreement and in and to the Leased Premises.

b. Representation

Assignor warrants that the Agreement is in good standing according to its terms, and that the Agreement has not been amended or modified, except as set forth in the recitals above.

c. Consideration

The consideration for this assignment consists of Assignee's acceptance of fee title of the adjacent parcel on which the museum, cultural facility and community center are located and assumption of all liability for performance of the Agency under the Agreement.

2. Assumption

a. Assumption of Interest

Assignee hereby accepts the foregoing assignment by Assignor and assumes responsibility for performance of all obligations of Assignor as Agency under the Agreement.

b. Indemnification

Assignee agrees to hold harmless, indemnify, and defend Assignor its officers, elected officials, agents and employees from and against any loss, claim, or liability suffered by or asserted against Assignor as a result of Assignee's liability to fully perform the Agreement at any time hereafter.

c. As-Is

Assignee has inspected the Leased Premises and accepts the same in "AS IS" condition.

3. General Provisions

a. Oregon Law and Forum

This Assignment shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

b. Applicable Law

The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

c. Non-Exclusive Rights and Remedies

Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Assignment shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

d. Debt Limitation

This Assignment 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.

e. Severability

If any provision of this Assignment 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 Assignment without such provision to give effect to the maximum extent possible the intentions of the Parties.

f. Integration, Amendment and Waiver

Except as otherwise set forth herein, this Assignment constitutes the entire agreement between the Parties on the matter of the Agreement assignment. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Assignment. No waiver, consent, modification or change of terms of this Assignment shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Assignment shall not constitute a waiver by such Party of that or any other provision.

g. Counterparts

This Assignment may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 Assignment so executed shall constitute an original.

h. Authority

Each Party represents that it has the authority to enter into this Assignment on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Assignment.

i. Necessary Acts

Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Assignment.

IN WITNESS WHEREOF, the undersigned have executed this assignment of lease effective as of the date first above written.

ASSIGNOR:

Clackamas County Development Agency

Chair

Dated: _____

ASSIGNEE:

Clackamas County

By:

Dated: _____

ASSIGNMENT OF LEASE

THIS ASSIGNMENT OF LEASE is dated September 20, 2018, and is between Clackamas County Development Agency, "**Assignor**," and Clackamas County, by and through its Tourism & Cultural Affairs department, "**Assignee**."

RECITALS:

- A.** Assignor is the "Landlord" under that certain lease with the Mt. Hood Cultural Center and Museum, an Oregon nonprofit corporation, as the tenant (the "**Tenant**"), dated March 30, 2006, which was recorded on April 6, 2006 as document no. 2006-030760 of the Clackamas County, Oregon, Records;
- B.** The "Leased Premises" which are the subject of the Lease consist of a building and associated facilities located at 88900 Government Camp Loop, Government Camp, OR 97028, as more particularly described in the Lease;
- C.** The Leased Premises are used as a year-round museum, cultural facility and community center;
- D.** Contemporaneous with the execution of this Agreement, Assignor deeded the Leased Premises to Assignee.
- E.** Assignee, having reviewed and become familiar with all of the terms and conditions of the Lease, now wishes to acquire Assignor's interest in the Leased Premises, and is willing to assume all of the obligations of the Landlord under the Lease and in and to the Leased Premises.

NOW, THEREFORE in consideration of the mutual promises contained herein, and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee covenant and agree as follows:

1. Assignment

a. Assignment of Interest

Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's interest as Landlord in and to the Lease and in and to the Leased Premises.

b. Representation

Assignor warrants that the Lease is in good standing according to its terms, that the Lease has not been amended or modified, except as set forth in the recitals above, and that Tenant is current on all rent due thereunder.

c. Consideration

The consideration for this assignment consists of Assignee's acceptance of fee title of the Leased Premises and assumption of all liability for performance of the Lease.

2. Assumption

a. Assumption of Interest

Assignee hereby accepts the foregoing assignment by Assignor and assumes responsibility for performance of all obligations of Assignor as Landlord under the Lease.

b. Indemnification

Assignee agrees to hold harmless, indemnify, and defend Assignor its officers, elected officials, agents and employees from and against any loss, claim, or liability suffered by or asserted against Assignor as a result of Assignee's liability to fully perform the Lease at any time hereafter.

c. As-Is

Assignee has inspected the Leased Premises and accepts the same in "AS IS" condition.

3. General Provisions

a. Oregon Law and Forum

This Assignment shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

b. Applicable Law

The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.

c. Non-Exclusive Rights and Remedies

Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Assignment shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

d. Debt Limitation

This Assignment 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.

e. Severability

If any provision of this Assignment 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 Assignment without such provision to give effect to the maximum extent possible the intentions of the Parties.

f. Integration, Amendment and Waiver

Except as otherwise set forth herein, this Assignment constitutes the entire agreement between the Parties on the matter of the lease assignment. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Assignment. No waiver, consent, modification or change of terms of this Assignment shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Assignment shall not constitute a waiver by such Party of that or any other provision.

g. Counterparts

This Assignment may be executed in any number of counterparts (electronic, facsimile or otherwise) 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 Assignment so executed shall constitute an original.

h. Authority

Each Party represents that it has the authority to enter into this Assignment on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Assignment.

i. Necessary Acts

Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Assignment.

IN WITNESS WHEREOF, the undersigned have executed this assignment of lease effective as of the date first above written.

ASSIGNOR:

Clackamas County Development Agency

Chair

Dated: _____

ASSIGNEE:

Clackamas County

By:

Dated: _____

BARGAIN AND SALE DEED

GRANTOR:

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

GRANTEE:

Clackamas County
Tourism & Cultural Affairs
150 Beaver Creek Road
Oregon City, OR 97045

After Recording Return To:

Clackamas County Development Agency
150 Beaver Creek Road
Oregon City, OR 97045

Until a Change is Requested, Tax Statements shall be sent to the following address:

Clackamas County
Tourism & Cultural Affairs
150 Beaver Creek Road
Oregon City, OR 97045

Agenda No: _____

and/or

Board Order No: _____

BARGAIN and SALE DEED

KNOW ALL PERSONS BY THESE PRESENTS, that the CLACKAMAS COUNTY DEVELOPMENT AGENCY, the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY, OREGON, a corporate body politic (which, together with any successor public agency designated by or pursuant to law, is herein called the "Agency"), does hereby grant, bargain, sell and convey as grantor unto CLACKAMAS COUNTY, a corporate body politic, by and through its Tourism & Cultural Affairs Department (hereinafter called the "County") as grantee and to its successors and assigns, all of the following described real property, with the tenements, hereditaments and appurtenances (the "Property") situated in the County of Clackamas, State of Oregon, to wit:

See Exhibit "A" attached hereto and incorporated herein.

The true and actual consideration for this conveyance is the assumption of responsibilities described in the following agreements between the parties, all of even date herewith: Assignment of Lease, Assignment of Agreement, Bill of Sale, and Assignment of Owner Participant and Development Agreement Under Government Camp Village Revitalization Plan & Report.

This Grant is made by the Agency pursuant to powers exercised by it under Oregon Revised Statutes Chapter 457 for the purpose of carrying out an urban renewal plan for the Government Camp Revitalization Area which Plan was approved by the Clackamas County Commission in December 1989 and which Plan has been amended and, as amended, is incorporated herein and by this reference made a part hereof.

“BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.”

[Signature and Acknowledgement on Following Page]

IN WITNESS WHEREOF, the Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County has caused this instrument to be executed by duly elected officers this ____ day of _____, 2018.

CLACKAMAS COUNTY DEVELOPMENT AGENCY, the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY, a corporate body politic under ORS Chapter 457

By: _____
Chair

STATE OF OREGON)
) ss.
County of Clackamas)

On this ____ day of _____, 2018 before me the undersigned, a notary public in and for such state, the foregoing instrument was acknowledged before me by _____, Chair, on behalf of the Clackamas County Development Agency.

Notary Public for Oregon
My Commission Expires: _____

**CLACKAMAS COUNTY DEVELOPMENT AGENCY
BILL OF SALE**

This Bill of Sale (this “Agreement”) is made and entered into on this 20th day of September, 2018 between the CLACKAMAS COUNTY DEVELOPMENT AGENCY, the Urban Renewal Agency of Clackamas County, a corporate body politic (the “Seller”), and CLACKAMAS COUNTY, by and through its Tourism & Cultural Affairs department (the “Buyer”), collectively referred to as the “Parties.”

Agreement

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, the Parties agree as follows:

1. **Property.** The Seller desires to transfer to the Buyer, and the Buyer desires to acquire, all of the Seller’s right, title, and interest in and to the Barlow Road Information Kiosk located within the Government Camp Revitalization Area boundary, as defined in the Government Camp Village Revitalization Plan, as Amended April 21, 2005 (the “Plan”) and situated across Government Camp Loop from the museum located at 88900 Government Camp Loop, Government Camp, OR 97028. The Seller hereby transfers all of the Seller’s right, title, and interest in and to the Barlow Road Information Kiosk (the “Property”)
2. **Consideration.** In consideration for the transfer of the Seller’s Property, the Buyer has accepted a transfer of the proper and maintenance obligations associated with the museum located at 88900 Government Camp Loop, Government Camp, OR 97028 and will assume maintenance responsibility for the Property, consistent with the requirements of the Government Camp Village Revitalization Plan, which was originally adopted by Board Order No. 89-1143 in December 1989.
3. **Transfer of Ownership.** The Buyer will take ownership of the Property upon the full execution of this Agreement.
4. **Indemnity.** The Buyer agrees to indemnify, save harmless and defend the Seller, 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 Buyer or Buyer’s officers, owners, employees, agents, or its subcontractors or anyone over which the Buyer has a right to control.
5. **Warranty.** Except as otherwise expressly stated above, the Seller makes no warranties or representations with respect to the Property. The Buyer accepts the Property AS IS, WHERE IS, in its present condition, including all defects and with all faults, and there are no warranties of merchantability or of fitness for a particular purpose with respect to the Property.
6. **Amendments.** The Seller and the Buyer may amend this Agreement at any time by written amendment executed by both Parties.

7. **Assignment.** The Buyer will not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the Seller, which may be granted or withheld in the Seller's sole and absolute discretion.

8. **Integration.** This Agreement contains the entire agreement between the Seller and the Buyer and supersedes all prior written or oral discussions or agreements.

9. **Governing Law.** This Agreement has been negotiated, prepared, and executed in accordance with the laws of the state of Oregon and will be construed in accordance with those laws.

10. **Public Contracting Law.** The Parties hereby agree to abide by and incorporate by reference all relevant provisions and requirements of ORS Chapters 279A, 279B, and 279C.

11. **Counterparts.** This Agreement may be executed in multiple originals or counterparts, each of which will be deemed original for all purposes, together constituting one and the same instrument. Copies of the parties' signatures to this Agreement transmitted by facsimile, e-mail or other electronic means shall be considered originals for all purposes.

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.

CLACKAMAS COUNTY

CLACKAMAS COUNTY
DEVELOPMENT AGENCY

Chair

Chair

Date

Date



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

September 20, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of the First Amendment to Storm Line Easement

Purpose/Outcome	To amend existing storm water easement with Clackamas Corporate Park, LLC to add a revised map.
Dollar Amount and Fiscal Impact	No change
Funding Source	N/A.
Duration	Permanent
Previous Board Action/Review	Storm Line Easement signed by Board Chair in July 2018
Strategic Plan Alignment	Build public trust through good government
Contact Person	Dave Queener, Development Agency Program Supervisor, 503-742-4322

In July 2018, the Development Agency completed a sale of a portion of the Clackamas Industrial Opportunity Site (CIAO) to Clackamas Corporate Park, LLC. Each party was required to execute an easement to address storm line infrastructure on the site. During closing, it was determined that a map attached to the easement was insufficient for recording purposes. The easement was recorded without the map to accommodate closing, with the parties agreeing to amend the easement to add the map once an updated version could be produced. The new map has been produced and the parties are ready to execute the attached amendment to add the map exhibit to the easement.

County Counsel has reviewed and approved the proposed amendment to the easement.

RECOMMENDATION

Staff respectfully recommends that the Board, as the governing body of the Clackamas County Development Agency, execute this First Amendment to the Storm Line Easement

Respectfully submitted,

David Queener, Program Supervisor
Development Agency

**AFTER RECORDING
RETURN TO:**

Andrew Davis
Stoll Berne
209 SW Oak Street, Suite 500
Portland, Oregon 97204

FIRST AMENDMENT TO STORM LINE EASEMENT AGREEMENT

This First Amendment to Storm Line Easement Agreement (this "**Amendment**") is executed as of _____, 2018, by and between **CLACKAMAS CORPORATE PARK, LLC**, a Delaware limited liability company ("**Grantor**"), and **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal agency of Clackamas County, a corporate body politic ("**Grantor**"), with respect to the following recitals:

RECITALS

A. Grantor and Grantee are parties to that Storm Line Easement Agreement recorded July 5, 2018, as Document No. 2018-041894 in the Official Records of Clackamas County, Oregon (the "**Agreement**").

B. Grantor and Grantee desire to confirm and modify the Agreement on the terms and conditions set forth herein. All capitalized terms used in this Amendment and not otherwise defined herein shall have their meaning as set forth in the Agreement.

AGREEMENT

1. **EXHIBIT A.** The Exhibit A attached to the Agreement is hereby deleted and is replaced in its entirety by the Exhibit A attached to this Amendment.

2. **RECORDATION.** Upon execution and acknowledgment by all parties, this Amendment shall be recorded in the official real property records of Clackamas County, Oregon.

3. **COUNTERPARTS; MODIFICATION.** This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment. This Amendment may not be amended except in a writing signed by both Owners.

4. **CONFIRMATION.** Except as expressly modified by this Amendment, the Agreement and all terms and conditions therein are hereby ratified and confirmed and shall be

and remain in full force and effect. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

In witness whereof, the parties have executed this Amendment as of the date first written above.

“GRANTOR”

CLACKAMAS CORPORATE PARK, LLC,
a Delaware limited liability company,

By: Lion-TCC Development II, LLC,
a Delaware limited liability company,
its Managing Member

By: TC Industrial Associates, Inc.,
a Delaware corporation,
its Managing Member

By: _____
Steve Wells, Vice President

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

On _____, 2018, before me personally appeared Steve Wells as the Vice President of TC Industrial Associates, Inc., as the Managing Member of Lion-TCC Development II, LLC, as the Managing Member of Clackamas Corporate Park, LLC, a Delaware limited liability company, who executed the within and foregoing instrument, and acknowledged said instrument to be the voluntary act and deed of said company.

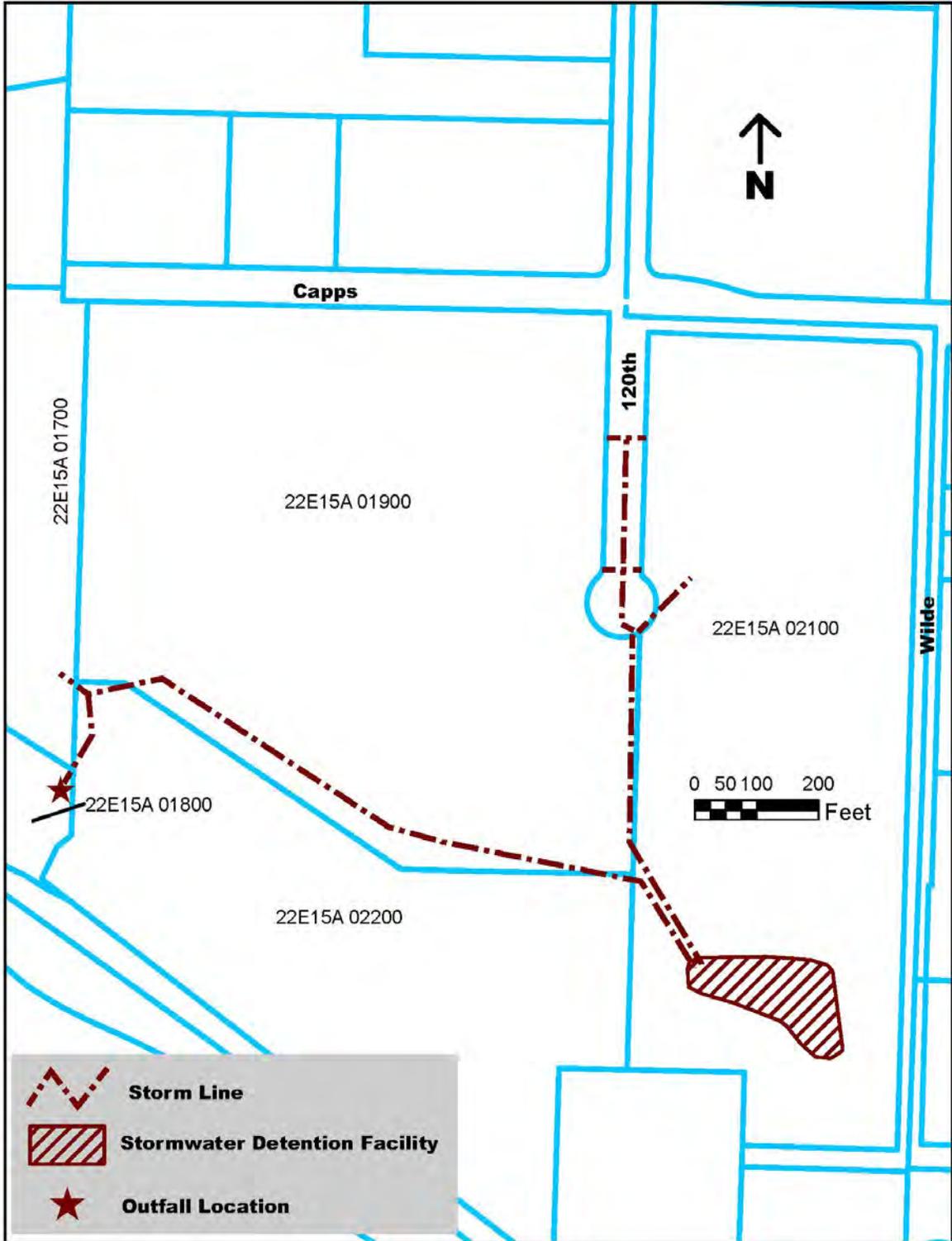
WITNESS my hand and official seal.

Notary Public for the State of Oregon
My commission expires: _____

[Signatures continue on the following page]

EXHIBIT A

Depiction of Storm Facilities





Gregory L. Geist
Director

September 20, 2018

Board of County Commissioners
acting as the Board of
Water Environment Services

Members of the Board:

**Approval of Acquisition of an Easement from the City of Gladstone
in support of the 82nd Drive Bridge Rehabilitation Project**

Purpose/Outcomes	To purchase and accept an easement from the City of Gladstone.
Dollar Amount and Fiscal Impact	The purchase price of the easement is \$20,000. Funds are currently available and budgeted.
Funding Source	WES Capital fund. No County General Funds are involved.
Duration	Permanent.
Previous Board Action	Acquisition of the Bridge itself.
Strategic Plan Alignment	Build strong infrastructure – this rehabilitation will support the long term functionality of the bridge.
Contact Person	Chris Storey, Assistant Director, WES – 503-742-4543

BACKGROUND:

In 1998, Clackamas County Service District No. 1 (“CCSD#1”) purchased the 82nd Drive Bridge (the “Bridge”) across the Clackamas River, located at the end of Highway 213 on the Oregon City side and the end of 82nd Drive in Gladstone, for One Dollar (\$1.00), and assumption of maintenance obligations of the bridge. As part of the regionalization reorganization, the Bridge has been transferred to Water Environment Services (“WES”).

WES is undertaking a rehabilitation project with respect to the Bridge to improve its carrying capacity for pipes, upgrade its seismic resistance capacity, and reinforce it to allow for emergency vehicle use. As part of this project, it eventually became clear that while CCSD#1 purchased the Bridge itself, the document did not deal with the land upon which the Bridge sat. To do the anticipated improvement work, land use approvals were necessary and required consent of the landowner. Rather than having the City of Gladstone be a co-permittee and obligee with respect to the project, WES staff has negotiated the acquisition of an easement (attached) that remedies the oversight of excluding the land from the 1998 agreement.

This concept was presented to the Gladstone City Council at their meeting held on September 11th, 2018, and was unanimously approved. If agreed to by the Board as the governing body of WES, the easement will promptly be recorded and payment made to the City of Gladstone. This will allow the project to go forward over the coming year, with a targeted completion timeline of Fall 2019.

RECOMMENDATION:

Staff recommends the Board approve the acquisition of the easement on the terms and conditions set for therein and authorize Greg Geist, WES Director, to sign on behalf of WES.

Respectfully submitted,



Chris Storey
Assistant Director, Water Environment Services

Attachments:
Easement with Exhibits

Grantor:
City of Gladstone
525 Portland Ave.
Gladstone, OR 97207

District:
Water Environment Services
150 Beaver Creek Road
Oregon City, OR 97045

After recording, return to:
Water Environment Services
150 Beaver Creek Road
Oregon City, OR 97045

Until a change is requested,
all taxes shall be sent to:
No Change



Reserve this area for recording stamp

PERMANENT SURFACE WATER, STORM DRAINAGE AND SANITARY SEWER EASEMENT

For value received, the **City of Gladstone**, a political subdivision of the State of Oregon (“Grantor”), hereby grant and convey to **Water Environment Services**, an intergovernmental entity formed pursuant to ORS Chapter 190 (“District”), a permanent non-exclusive easement and right, subject to all applicable permitting and land use approvals, to lay down, construct, reconstruct, replace, operate, inspect and perpetually maintain a pipe bridge, sewers, wastewater, storm drainage or surface water pipelines, and all related facilities (the “Purpose”) through, under, over and along the following described Grantor’s property (“Easement”) in the County of Clackamas and State of Oregon:

See Exhibit “A” for the Easement legal description as depicted on Exhibit “B”, each attached hereto and incorporated herein.

It is understood and agreed that, except in relation to the Purpose, no buildings or other structures shall be erected, nor mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials occur upon the Easement premises without the written consent of Grantor. The District will restore, as near as practical, the landscaping, including native habitat within the habitat conservation area overlay, and pavement that may exist or be placed within the Easement disturbed by construction, maintenance, repair, or replacement. The District shall give reasonable notice to the landowner before activities in connection with surface water, storm drainage, or sanitary sewer facility are commenced and shall limit activities to those necessary to achieve the purpose of constructing, reconstructing, enlarging, replacing, repairing, inspecting or maintaining the facility.

Grantor agrees to undertake no activity or otherwise harm or impair the Easement area to prevent or impede the proper functioning of the District’s system. Grantor shall retain, on behalf of both Grantor and the public, the right to access, use, and enjoy the Easement Area for all purposes not inconsistent with the rights granted to District herein and so long as such use does not materially harm or impair District’s use as authorized by the terms of this Easement.

This instrument does not grant or convey to the District any right or title to the surface of the soil along the route of said sewer except for the Purpose.

The true and actual consideration for this transfer is Twenty Thousand and 00/100 Dollars (\$20,000.00) and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor.

Subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, District covenants to and does hereby agree to indemnify, hold harmless and defend the Grantor and his successors and assigns, from and against all claims and all costs, expenses and liabilities incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of the death of any person or persons, or any accident, personal injury, loss or damage whatsoever caused to any person or entity or to the property of any person or entity as shall occur on or about the Easement as the result of District’s exercise of the rights granted in this Agreement, or District’s failure to perform the obligations set forth in this Agreement. There shall be excluded from the foregoing indemnification the damages, costs and expenses to the extent that such damages, costs and expenses are caused by the negligence of Grantor, its agents, employees, representatives, or their successors and assigns.

In witness whereof, the Grantor(s) above named, has here-unto set their hand(s) and seal(s) this _____ day of _____, 2018.

Grantor City of Gladstone

Name: _____

Title: _____

Date: _____

STATE OF OREGON)
) ss.
County of Clackamas)

This record was acknowledged before me on (date) _____ by _____ as the _____ of _____.

Notary Public for Oregon

My Commission Expires: _____

**Accepted by Grantee:
Water Environment Services**

Director

Date

Recording Secretary



EXHIBIT "A"
EASEMENT AREA

A TRACT OF LAND SITUATED IN THE S.E. 1/4 OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF BRIDGEVIEW LANE WITH THE EAST RIGHT OF WAY LINE OF COUNTY ROAD 1286 (ALSO KNOWN AS 82ND DRIVE), THENCE NORTHERLY ALONG SAID EAST RIGHT OF WAY LINE, 30.00 FEET FROM CENTERLINE AS DEPICTED ON SN 2017-232, CLACKAMAS COUNTY SURVEY RECORDS, 31.72 FEET ALONG THE ARC OF A 507.47 FOOT RADIUS CURVE CONCAVE TO THE WEST THROUGH A CENTRAL ANGLE OF 03°34'52" (LONG CHORD BEARS NORTH 14°14'49" WEST 31.71 FEET) TO A POINT OF TANGENCY AT STATION 70+50.59 P.T., 30.00 RIGHT AS DEPICTED ON SAID SN 2017-232; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, AS DEPICTED ON SN 2017-232, NORTH 16°02'15" WEST 248.34 FEET TO AN ANGLE POINT IN SAID RIGHT OF WAY LINE AT STATION 72+98.93, 30.00 RIGHT; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, AS DEPICTED ON SN 2017-232, NORTH 71°14'23" EAST 30.10 FEET TO AN ANGLE POINT IN SAID RIGHT OF WAY LINE AT STATION 73+00.36, 60.07 RIGHT; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, AS DEPICTED ON SN 2017-232, NORTH 23°36'35" WEST 77.86 FEET TO AN ANGLE POINT IN SAID RIGHT OF WAY LINE AT STATION 73+77.54, 49.81 RIGHT; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, AS DEPICTED ON SN 2017-232, SOUTH 64°04'45" WEST 18.12 FEET TO AN ANGLE POINT IN SAID RIGHT OF WAY LINE AT STATION 73+74.43, 31.96 RIGHT; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, AS DEPICTED ON SN 2017-232, A DISTANCE OF 20.00 FEET ALONG THE ARC OF A 152.00 FOOT RADIUS CURVE CONCAVE TO THE EAST THROUGH A CENTRAL ANGLE OF 07°32'20" (LONG CHORD BEARS NORTH 10°43'46" WEST 19.98 FEET); THENCE LEAVING SAID EAST RIGHT OF WAY LINE SOUTH 79°45'11" WEST 82.17 FEET TO AN ANGLE POINT IN THE NORTH RIGHT OF WAY LINE OF CLACKAMAS BLVD. AS DEPICTED ON SN 2017-232 AT STATION 74+02.62, 47.94 LEFT; THENCE ALONG SAID NORTH RIGHT OF WAY LINE OF CLACKAMAS BLVD. SOUTH 63°13'29" EAST 24.46 FEET TO THE WEST RIGHT OF WAY LINE OF THE AFOREMENTIONED COUNTY ROAD 1286 AT STATION 73+86.00, 30.00 LEFT, AS DEPICTED ON SN 2017-232; THENCE ALONG SAID WEST RIGHT OF WAY LINE, AS DEPICTED ON SN 2017-232, SOUTH 16°02'15" EAST 335.41 FEET TO A POINT OF CURVATURE AT STATION 70+50.59 P.T., 30.00 LEFT AS DEPICTED ON SN 2017-232; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY LINE, AS DEPICTED ON SN 2017-232, A DISTANCE OF 47.07 FEET ALONG THE ARC OF A 447.47 FOOT RADIUS CURVE CONCAVE TO THE WEST THROUGH A CENTRAL ANGLE OF 06°01'38" (LONG CHORD BEARS SOUTH 13°01'26" EAST 47.05 FEET); THENCE LEAVING SAID WEST RIGHT OF WAY LINE NORTH 60° 00'00" EAST 63.35 FEET TO THE POINT OF BEGINNING.

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

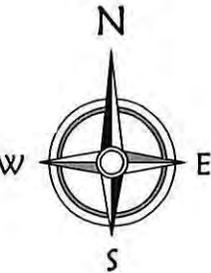
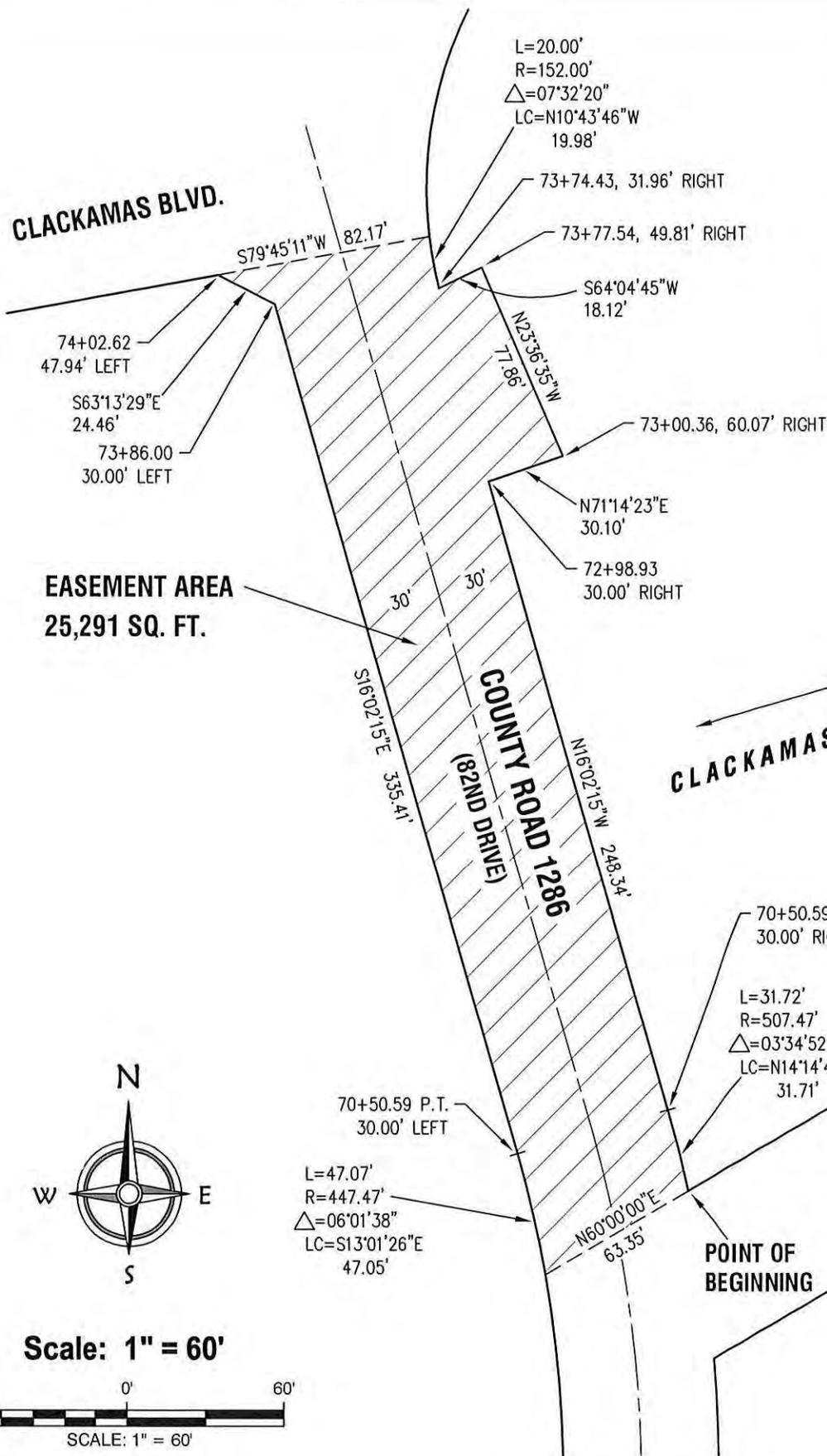

**OREGON
JULY 14, 1978
DON DEVLAE MINCK
1634**

DATE OF SIGNATURE: 7/27/18
EXPIRES 12/31/2019

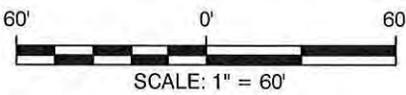
REGISTERED
PROFESSIONAL
LAND SURVEYOR

[Signature]
OREGON
JULY 14, 1978
DON DEVLAE MINCK
1634

DATE OF SIGNATURE: *7/17/18*
EXPIRES 12/31/2019



Scale: 1" = 60'



8077 Exh.dwg

C MPASS Land Surveyors
4107 SE International Way, Suite 705
Milwaukie, Oregon 97222 503-653-9093

**SE 1/4 OF SECTION 20, T.2S., R.2E., W.M.
CLACKAMAS COUNTY, OREGON**

EXHIBIT "B"