

November 4, 2021

Members of the Board:

Approval of an Intergovernmental Agreement with the Oregon Department of Human Services (ODHS) for licenses and access to the Homeless Management Information System (HMIS). Agreement is to allow the County to bill ODHS \$7,596, actual costs of licenses.
No County General Funds are involved.

Purpose/Outcome	Allow Clackamas County to bill DHS for the cost of licenses and access to the Homeless Management Information Systems (HMIS) database. DHS must use this system to track the success of a homeless housing program and assist with Coordinated Housing Access (CHA).
Dollar Amount and Fiscal Impact	\$7,596 / no fiscal impact, zero net - the amount billed to HMIS is the same amount Clackamas County currently pays to the database software company for these licenses.
Funding Source	H3S will be billing ODHS for actual cost of license and access. No County General Funds are involved.
Duration	Effective upon signature to September 30, 2025
Previous Board Action/Review	N/A
Strategic Plan Alignment	1. Ensuring access to safe, stable housing 2. Build public trust through good government
Counsel Review	Date of County Counsel review: April 12, 2021 County Counsel: Andrew Naylor
Procurement Review	Was the item process through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> If no, provide brief explanation: Intergovernmental Agreement
Contact Person	Abby Ahern 971/349-0375
Contract No.	10383

BACKGROUND:

HMIS is the centralized databased used throughout Oregon to track outcomes for homeless programs and services. H3S currently contracts with Wellsky, the HMIS software company, to administer this database for Clackamas County. Several H3S Divisions and many community non-profits use the system and contract with H3S for access. The cost charged by Wellsky is passed on to those holding licenses for use of the system.

ODHS has a need to access the Homeless Management Information Systems (HMIS) database to assist ODHS clients in accessing housing services and to participate in data tracking for the Foster Youth to Independence (FYI) program.

RECOMMENDATION:

Staff recommends approval of this IGA, and authorizes the Chair to sign on behalf of the County.

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us

Respectfully submitted,

Mary Rumbaugh

Rodney A. Cook

Director

Health, Housing and Human Services (H3S)

Contract Transmittal Form
Health, Housing & Human Services Department

H3S Contract #: 10383

Division: CD
Contact: Anderson, Pamela
Program Contact:
Anderson, Pamela

- Subrecipient
- Revenue
- Amend # \$
- Procurement Verified
- Aggregate Total Verified

Board Order #:

Non BCC Item BCC Agenda

Date: Thursday, November 11th 2021

CONTRACT WITH: Department of Human Services

CONTRACT AMOUNT: \$7,596.00

TYPE OF CONTRACT

- | | |
|---|--|
| <input type="checkbox"/> Agency Service Contract | <input type="checkbox"/> Memo of Understanding/Agreement |
| <input type="checkbox"/> Construction Agreement | <input type="checkbox"/> Professional, Technical & Personal Services |
| <input checked="" type="checkbox"/> Intergovernmental Agreement | <input type="checkbox"/> Property/Rental/Lease |
| <input type="checkbox"/> Interagency Services Agreement | <input type="checkbox"/> One Off |

DATE RANGE

- | | | | |
|--|-------------|---|---|
| <input type="checkbox"/> Full Fiscal Year | - | <input checked="" type="checkbox"/> 4 or 5 Year | - |
| <input checked="" type="checkbox"/> Upon Signature | - 9/30/2025 | <input checked="" type="checkbox"/> Biennium | - |
| <input type="checkbox"/> Other | - | <input type="checkbox"/> Retroactive Request? | - |

INSURANCE What insurance language is required?

Checked Off N/A

Commercial General Liability: Yes No, not applicable No, waived
If no, explain why:

Business Automobile Liability: Yes No, not applicable No, waived
If no, explain why:

Professional Liability: Yes No, not applicable No, waived
If no, explain why:

Approved by Risk Mgr _____

Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Andrew Naylor
OR

Date Approved: Monday, April 12, 2021

This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: *Pamela Anderson*

Date: Oct. 18, 2021

**H3S Admin
Only**

Date Received: _____
Date Signed: _____
Date Sent: _____

AGREEMENTS/CONTRACTS

- X New Agreement/Contract
Amendment/Change Order Original Number

ORIGINATING COUNTY

**DEPARTMENT: Health, Housing Human Services
Community Development**

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: Department of Human Services

BOARD AGENDA ITEM

NUMBER/DATE:

11/4/21
DATE: 11/4/2021

PURPOSE OF

CONTRACT/AGREEMENT: This Agreement allows for Clackamas County to bill (invoice) Department of Human Services for the cost of licenses and access to the Homeless Management Information System (HMIS) database.

H3S CONTRACT NUMBER: 10383

**INTERGOVERNMENTAL AGREEMENT BETWEEN
CLACKAMAS COUNTY
AND STATE OF OREGON DEPARTMENT OF HUMAN SERVICES**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a political subdivision of the State of Oregon, and the State of Oregon by and through the Oregon Department of Human Services (DHS) ("Agency").

RECITALS

1. Oregon Revised Statutes (ORS) 190.110 confers authority upon the parties to enter into this Agreement.
2. The City of Portland manages a Homeless Management Information System (HMIS), and County is a key stakeholder and an authorized organizational participant in the HMIS. The HMIS includes software of a third party contractor, currently operating as WellSky, also referred to as ServicePoint.
3. County has an agreement with the City of Portland to access the HMIS software, and has authority under its agreement with the City of Portland to allow Agency users access and use of the HMIS and the data in the HMIS under County's HMIS agreement.
4. The parties have authority to exchange and access the information in the HMIS under ORS 411.116, and DHS may use and disclose information pursuant to OAR 407-014-0020, and ORS Chapter 190 and the HMIS Data and Technical Standard Final Rule, 69 FR 45887.

County and Agency hereby agree as follows:

AGREEMENT

1. **Term.** This Agreement is effective upon execution by both parties and expires on September 30, 2025, unless terminated earlier in accordance with its terms.
2. **Purpose**
 - A. The purpose of this Agreement is to provide a basis for a cooperative working relationship for gathering, entering and reporting on program participation data using the HMIS referenced in the Recitals.
 - B. DHS provides direct services to help clients achieve self-sufficiency, which includes accessing housing services. In this capacity, DHS is in need of a database system that will help clients and DHS staff track system usage and program participant data. County wishes to provide DHS access to the HMIS.
3. **Consideration.** Agency agrees to pay County for HMIS database access costs as set forth in Section 5 of this Agreement. County shall submit to Agency an annual invoice itemizing all HMIS database access costs. Payments are due to County within 30 days. Of receipt of the invoice, subject to Agency's review and approval. County shall not submit invoices for, and Agency will not pay, any amount in excess of the maximum compensation amount set forth below.
4. **Terms of Access**
 - A. Under this Agreement DHS will:
 1. Supervise usage of the HMIS by its employees and contractors under this Agreement.
 2. Monitor data quality and completeness for compliance with system-wide and funder data standards.
 3. Sign and abide by the terms of the NW Social Service Connections/Clackamas County Participant Agreement, attached hereto as ATTACHMENT A.
 4. Ensure all users sign and comply with all the terms of the NW Social Services Connection/Clackamas

County User Agreement, as attached hereto as ATTACHMENT A.

B. Under this Agreement County will:

1. Set up DHS' accounts and manage administrative settings in the HMIS database.
2. Provide at least one data entry software license for the HMIS database; additional data entry software licenses may be purchased as provided in Section 5.A of this Agreement.
3. Make available report-viewing licenses for purchase as provided in Section 5.A. of this Agreement.
4. Provide trainings, in conjunction with other county divisions, as needed, for:
 - (1) pre-developed reports for measuring progress and outcomes, (2) ensuring DHS is kept abreast of changes to the HMIS database and updated versions, (3) increasing the skills of users.
5. Provide technical support for software.

5. Budget and Financial

- A. DHS shall pay County a one-time fee to purchase license rights to access the HMIS database, in the name of County for DHS' use as a participant under County's agreement with the City of Portland, and will pay related annual fees for support and technical assistance, as shown in Section 6 below, during the term of this Agreement. Agency may request additional HMIS and report-viewing licenses be purchased in the name of County for DHS' use under this Agreement at any time during the term of this Agreement, by written request and at the rates shown in the Cost Table. If added, Agency will thereafter also annually pay County for all additional HMIS and Report-viewer license fees for the agreed-upon period.
- B. County will bill Agency annually on April 1st of each year, with payment due by June 1st.
- C. The annual fees for support and technical assistance are dependent on the amount charged to County under its agreement with the City of Portland for the HMIS. The City of Portland provides information annually in advance to County about cost changes. The range in fees in the Cost Table below reflects the anticipated maximum increase in costs over the term of the Agreement. If actual prospective fees are not within the range(s) set below, the parties may amend this Agreement to update the revised agreed upon fees.

6. Cost Table

Fiscal Year (10/1-9/30)	HMIS License Purchase (one-time only per user)	Annual support fee (paid per user license)	Annual report-viewer license	Annual cost of technical assistance	Subtotal for 1 user license	Subtotal for 4 user licenses and 1 report-viewer license
2020-2021	\$200/user	\$105/user license	none	\$161/user license	\$466/year	N/A
2021-2022	\$200-\$250/user to add	\$105-150/user license	\$100-150/ report viewer license	\$161-\$200/user license	\$266-\$355/year	\$1,964-\$2,570/year

2022-2023	\$200-\$250/user to add	\$105-150/user license	\$100-150/ report viewer license	\$161-\$200/user license	\$266-\$355/ year	\$1,164-\$1,520/ year
2023-2024	\$200-\$250/user to add	\$105-150/user license	\$100-150/report viewer license	\$161-\$200/user license	\$266-\$355/ year	\$1,164-\$1,520/ year
2024-2025	\$200-\$250/user to add	\$105-150/user license	\$100-150/report viewer license	\$161-\$200/user license	\$266-\$355/ year	\$1,164-\$1,520/ year
Totals					\$1,530-\$1,886 (2020-2025)	\$5,456-\$7130 (2020-2025)
MAXIMUM AMOUNT PAYABLE					\$7,596 (first year with one license, all subsequent years with 4 licenses, one report-viewer license.	

The State of Oregon’s payment obligations under this Agreement are conditioned upon Agency receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement.

7. Representations and Warranties.

- A. Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, is a valid and binding obligation of Agency enforceable in accordance with its terms.
- B. Agency represents and warrants that the making and performance by Agency of this Agreement (a) have been duly authorized by all necessary action by Agency and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Agency is a party or by which Agency may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Agency of this Agreement, other than approval by the Department of Justice if required by law.
- C. County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, is a valid and binding obligation of County enforceable in accordance with its terms.
- D. County represents and warrants that the making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County’s

charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.

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

8. Termination.

- A. Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either party 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 will 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. County or Agency will 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. Either party may terminate this Agreement in the event it fails to receive expenditure authority sufficient to allow that party, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Agreement is prohibited or the party is prohibited from paying for such work from the planned funding source.
- E. Any termination of this Agreement will not prejudice any rights or obligations accrued to the parties prior to termination.

- 9. Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

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

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

- B. With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.
10. **Notices; Contacts.** Either party may change its contact information, or its invoice or payment address, by giving prior written notice to the other party. Except as otherwise expressly provided in this Agreement, any other communications between the parties or notices to be given must be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or Agency at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail will be deemed received and effective five days after the date of mailing. Any communication or notice delivered by email will be deemed received and effective on the day recipient generates a receipt of the successful transmission, if receipt was during normal business hours of the recipient, or on the next business day if receipt was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by email must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery will be deemed effective when actually delivered to the addressee.

Abby Ahern or their designee will act as liaison for the County.

Contact Information:

13930 Gain Street Oregon City, OR 97045
HACCSHS@clackamas.us

Cristin Guitron or their designee will act as liaison for the Agency.

Contact Information:

315 S. Beaver Creek Road Oregon City, OR 97045
CRISTIN.GUITRON@dhsosha.state.or.us

11. General Provisions.

- A. **Oregon Law and Forum.** This Agreement is governed by and to be construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement must be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based

on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

- B. **Compliance with Applicable Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Agreement. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and Agency, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement requires County or Agency to act in violation of state or federal law or the Constitution of the State of Oregon.
- 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.** Each party shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted government accounting principles. All other Records will be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Intellectual Property.** Except as otherwise expressly provided in this Agreement, or as otherwise required by state or federal law, Agency will not own the right, title or interest in any intellectual property created or delivered by County or its employees, agents or contractors in connection with this Agreement, and County will not own the right, title, or interest in any intellectual property created or delivered by Agency or its employees, agents, or contractors in connection with this Agreement.
- F. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.
- G. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the

Agreement did not contain the particular term or provision held to be invalid.

- H. **Integration, Amendment, Waiver; Order of Precedence.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the parties on the matter subject matter within; there are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.
1. No waiver, consent, modification or change of terms of this Agreement binds 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, is effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement does not constitute a waiver by such party of that or any other provision.
 2. In the event of a conflict between these terms and conditions, Attachment A, and Attachment B, any attachments referenced in this Agreement, the conflict will be resolved in the following order of precedence: these terms and conditions, Attachment A, Attachment B, then referenced documents. No updated, superseding, additional, or replacement versions of referenced documents adopted after the execution date of this Agreement may add, detract, or materially modify this Agreement unless this Agreement is amended via written amendment executed by the parties to include the referenced document.
- I. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of its provisions.
- J. **Independent Contractor.** The parties hereto are an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one party may be deemed to be a representative, agent, employee or contractor of the other party for any purpose. Nothing herein is intended, nor may 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.
- K. **No Third-Party Beneficiaries.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or may be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- L. **Subcontract and Assignment.** Neither party may assign or transfer its interest in this Agreement without prior written approval of the other party. Any such assignment or transfer, if approved, is subject to such conditions and provisions as the parties may deem necessary. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns. No approval by Agency of any assignment or transfer of interest may be deemed to create any obligation of Agency in addition to those set forth in the Agreement.
- M. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which is an original, all of which constitutes the same instrument.
- N. **Survival.** Provisions of this Agreement that survive Agreement expiration or termination include provisions relating to warranties, contribution, intellectual property, subcontract and assignment, choice of law and venue, and confidentiality, as well as the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination does not extinguish or prejudice

either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

- O. **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.
- P. **Successors in Interest.** The provisions of this Agreement are binding upon and inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- Q. **Force Majeure.** Neither Agency nor County is responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency and County shall make all reasonable efforts to remove or eliminatesuch cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- R. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

IN WITNESS HEREOF, the parties have executed this Agreement by the date set forth opposite their names below.

**State of Oregon Department of Human
Services (Oregon DHS)**
315 S. Beaver Creek Road
Oregon City, OR 97045

Clackamas County

Seth Lyon, District Manager

Tootie Smith, Chair

Date

Date

Recording Secretary

Approved as to form

Andrew Naylor on April 12, 2021
County Counsel

Attachment A

**NW Social Service Connections / Clackamas County
PARTICIPATION AGREEMENT**

This Agreement is entered into on ___/___/____ (to be completed on final signature to this document) between NW Social Service Connections CMIS/HMIS: Clackamas County and _____ (hereinafter “Organization” or “Participant”).

NW Social Service Connections (NWSSC) is the administrative entity that governs a multiple key stakeholder¹ implementation of Management Information System (CMIS/HMIS) used to record and share information among service-providers on services provided to homeless and near homeless Clients. The NWSSC CMIS/HMIS system of choice is ServicePoint. ServicePoint (trademarked and copyrighted by Bowman Systems) is an information system that provides standardized assessment of a Client’s needs, creates individualized service plans and records the use of housing and services which communities can use to determine the utilization of services of participating Service Providers, identify gaps in the local service continuum and develop outcome measurements.

The City of Portland, Portland Housing Bureau (PHB) is the owner and operator of the NWSSC CMIS/HMIS and serves as the NWSSC System Administrator and custodian of data in the CMIS/HMIS. The lead organization for NWSSC is the City of Portland, Portland Housing Bureau (PHB) in partnership with key stakeholder¹ organizations with PHB Intergovernmental Agreements. The NWSSC System Administrators are ServicePoint-dedicated program staff from PHB, additionally each of the key stakeholder¹ organizations may have identified staff functioning as local ServicePoint System Administrators.

Any documentation, agreements, policies and forms created for use with NW Social Service Connections CMIS/HMIS must incorporate all NW Social Service Connections CMIS/HMIS policies, agreements, and documents and be no less restrictive.

In this agreement, “Participant” is Organization, “participant” is any other entity that uses ServicePoint; “Client” is a consumer of services. Participant is aware that other entities participate in ServicePoint.

1. **Operating Policies:** Participant agrees to follow and comply with all HMIS Data Standards and NWSSC Policies and Procedures, of which may be modified by NWSSC CMIS/HMIS System Administrators.
2. **Technical Support:** Bowman Systems is providing hosting services for NW Social Service Connections and Service Point. Bowman provides hosting, maintenance, monitoring, and administration for servers. The System Administrators and Bowman will provide continuing technical support as related to the ServicePoint system within budgetary constraints. Participating agencies will identify staff that will use the system and receive user licenses. If the agreement is terminated, PHB and NWSSC System Administrators will revoke user licenses. Bowman Systems shall operate and maintain the network server, software, and any other network or communication devices at the host site, which is necessary for the proper functioning of the ServicePoint system. Participant shall provide and maintain its own computers and connection to the Internet.

¹Clackamas County is a key stakeholder via Intergovernmental Agreement with the City of Portland Housing Bureau.

3. Computers: Security for data maintained in NW Social Service Connections CMIS/HMIS depends on a secure computing environment. Computer security is adapted from relevant provisions of the Department of Housing and Urban Development's (HUD) "Homeless Management Information Systems (HMIS) Data and Technical Standards Notice". Agencies are encouraged to directly consult that document for complete documentation of HUD's standards relating to CMIS/HMIS.
 - <https://www.hudexchange.info/programs/hmis/hmis-data-and-technical-standards/> PHB and Community Stakeholders may add additional standards and will provide notice(s) to Participants.
4. Training: The Organization is responsible for training related to basic computer skills as well as confidentiality and ethics training. The System Administrators shall assure the provision of training of necessary Participant staff in the use of ServicePoint. The System Administrators will provide training updates, as necessary and reasonable due to staff changes and changes in technology.
5. Data: Participant shall not be denied access to Client data entered by Participant's users. Participant is bound by all restrictions placed upon the data by the Client of any Participant. Participant must diligently record and take all other appropriate actions to assure ServicePoint includes and reflects all restrictions or release of sharing records the Client has requested. Participant must also keep on file all hard copy Release of Information forms. A Client may not be denied access to their own records.

Participant shall not knowingly enter false or misleading data under any circumstances. Participant shall provide the System Administrators with the appropriate ServicePoint Data. Violation of this section by Participant is a material violation of this agreement.

If this agreement is terminated, the System Administrators shall provide to Participant an electronic copy of its Client data. A hardcopy form will be available, upon written request, within seven (7) working days. Nonetheless, the System Administrators and remaining participants shall continue a right of use of all Client data previously entered by a terminating participant, including Organization. This use is subject to restrictions requested by the Client and may be used only in furtherance of the purpose of the NWSSC CMIS/HMIS application.

6. Confidentiality of Information: Participant understands that participation in the NWSSC CMIS/HMIS system may make confidential information in the Client Profile available to other participants with the hard copy ROI signed by the client. It is the responsibility of each participant to observe all applicable laws and regulations regarding Client confidentiality. Only Client specific data approved for release by the Client and properly recorded by Participant shall be accessible to other participants. Participant will provide staff training in privacy protection, for its ServicePoint users.

If a Client withdraws consent for sharing of information (release of information), Participant remains responsible to ensure that the Client's information is restricted at the Client Profile level and therefore unavailable to other participants. If Participant terminates this Agreement Participant must notify the NWSSC CMIS/HMIS and lead organization System Administrators of the withdrawal. System Administrators and remaining participants shall continue a right of use of all Client data previously entered by the terminating Participant. This use is subject to restrictions requested by the Client and may be used only in furtherance of the purpose of the NWSSC CMIS/HMIS application.

Aggregate data may be made available by CMIS/HMIS lead organizations to other entities for funding or planning purposes pertaining to providing services to the homeless. However, data released by the CMIS/HMIS lead organizations must never directly identify individual Clients.

De-identified data sets may be used for unduplicated counting, planning, and research activities.

All data will be archived from ServicePoint by the System Administrators no later than seven years after being entered or after last being modified.

7. Transferability: No right, privilege, license, duty, or obligation, whether specified or not in this agreement or elsewhere, can be transferred or assigned, whether or not done voluntarily or done through merger, consolidation, or in any other manner, unless the System Administrators or ServicePoint Policy Committee grants approval.
8. Mutuality: The terms of this agreement are intended to apply, amongst and between each individual participant, PHB, and the key stakeholders.
9. Limitation of Liability and Indemnification: Neither party to this Agreement shall assume any additional liability of any kind due to its execution of this Agreement or participation in the NWSSC CMIS/HMIS system. It is the intent of the parties that each party shall remain liable, to the extent provided by law, regarding its own acts and omissions; but that no party shall assume additional liability on its own behalf or liability for the acts of any other person or entity, through participation in ServicePoint. The parties specifically agree that this agreement is for the benefit of the parties only and this Agreement creates no rights in any third party.
10. Limitation of Liability: PHB and Key Stakeholders¹ shall not be liable to any member participant for any cessation, delay or interruption of services, nor for any malfunction of hardware, software or equipment to the extent that any such event is beyond reasonable control. If such an event continues for more than 30 days, Participant may terminate this agreement immediately upon written notification to the System Administrators, PHB, Key Stakeholders¹, and other participants. If Participant terminates thereby, the parties shall seek mutual resolution to any dispute.
11. Disclaimer of Warranties: The System Administrators make no warranties, expressed or implied, including the warranties or merchantability and fitness for a particular purpose, to Participant or any other person or entity as to the services of the ServicePoint system or to any other matter.
12. Term and Termination: This Agreement shall remain in-force until revoked in writing by either party with 30 days advance written notice. This Agreement may be amended or superseded by any additional or alternative agreements agreed upon in writing by the parties.
13. Amendments and Waivers: This agreement cannot be altered or modified except in writing signed by the parties. No waiver of any right under this agreement is effective except by a writing signed by the parties. No waiver or breach shall be considered a waiver or breach of any other provision neither of this Agreement nor of any subsequent breach or default. Each participant shall get notice from the System Administrators of any breach or waiver of a breach.
14. Notices: All notices between participants and System Administrators, under this Agreement must be in writing.
15. Scope of Agreement: This Agreement, together with the HMIS Policy and Procedure and its addendums is the entire agreement between the parties and is binding upon the parties and any

permitted successors or assigns.

16. Applicable Law: This Agreement is governed by and subject to the laws of the State of Oregon.
17. Display of Notice: Pursuant to the notice published by the Department of Housing and Urban Development (HUD) on July 30, 2004, Participant will prominently display the Notice to Clients of Uses & Disclosures (Privacy Notice to Clients) in its program offices where intake occurs and will take appropriate steps to ensure that all Clients whose information is entered into or accessed from CMIS/HMIS, read and understand the contents of the Notice. The Notice will be substantially in the form of the **Notice to Clients of Uses & Disclosures**, except that (a) where Organization's treatment of information is materially limited by other applicable laws or requirements, the Participant's Notice must reflect the more stringent requirements, and (b) Participant will update its Notice whenever NWSSC CMIS/HMIS updates and distributes a new form of Notice to Clients of Uses & Disclosures. Participant will provide a written copy of the Participant's Notice then in effect to any Client who requests it and will provide a copy of such Notice to all Clients who are asked to sign a Client Consent/Release of Information Form. Participant will maintain documentation of compliance with these notice requirements by, among other things, maintaining copies of all Notices it uses and the dates upon which they were first used.
18. Data Quality and Training Plan: Participant agrees to participate in the Clackamas County CoC's Data Quality and Training Plan which will be updated annually by the System Administrator.
19. Submission of Reports: Participant agrees to submit specific HMIS reports on a regular basis as detailed in its Agreement with Clackamas County.

ASSURANCE

_____ (Participant) assures that the following fully executed documents will be on file and available for review.

- The Organization's Confidentiality Policy.
- The Organization's Grievance Policy, including a procedure for external review.
- The Organization's official Privacy Notice for NWSSC/HMIS clients.
- Executed hard copy Client Release of Information forms.
- Executed User Agreement for all NWSSC System Users.
- A current copy of the NWSSC/Clackamas Policy and Procedures.

Signature of Organization Director

Printed Name

Date (mm/dd/YYYY)

EXTENT OF AGREEMENT

This Agreement represents the terms and conditions as to its subject matter between the parties and supersedes all prior representations, negotiations or agreements, whether written or oral. This Agreement is part of the Portland Housing Bureau IGA #30007185.

**Clackamas County
Public Services Bldg.
2051 Kaen Rd.
Oregon City, OR 97045**

PARTICIPANT

Tootie Smith, Chair

Date (mm/dd/YYYY)

Signature *Date*

Printed Name *Title*

Attachment B
USER AGREEMENT

(Agreement to follow HUD Standards for Data, Privacy, and Security)

(put an X before the agency you are employed with)

- | | |
|---|--|
| <input type="checkbox"/> The Inn | <input type="checkbox"/> Clackamas County Behavioral Health Division |
| <input type="checkbox"/> Housing Authority of Clackamas County | <input type="checkbox"/> Clackamas County Community Development Division |
| <input type="checkbox"/> Northwest Housing Alternatives | <input type="checkbox"/> Clackamas County Social Services Division |
| <input type="checkbox"/> Clackamas County Women's Services | <input type="checkbox"/> Clackamas County Children, Youth, and Family Services |
| <input type="checkbox"/> The Father's Heart Street Ministry | <input type="checkbox"/> Division |
| <input checked="" type="checkbox"/> State of Oregon Department of Human Services (Oregon DHS) | |

Employees, volunteers, and any other persons with access to the ServicePoint/Homeless Management Information System are subject to certain requirements regarding use of the HMIS. The HMIS contains a range of personal and private information on individuals and all such information must be treated carefully and professionally by all who access it.

Requirements for use of the HMIS include:

- The User shall comply with all data standards and policies and procedures.
- Each Agency must post a privacy notice describing its policies and practices for the processing of personal identifying information. The User must offer to explain any information that the individual does not understand and must provide a copy of its privacy notice to any individual upon request.
- Informed client or guardian consent, as documented by a hard copy Release of Information form, is required for any verbal, hard copy, or electronic data sharing or disclosure of personal identifying information to anyone outside of your Agency.
- Confidential information entered in or obtained from the HMIS is to remain confidential, even if your relationship with your Agency changes or ends for any reason.
- If a client or guardian chooses not to sign a Release of Information form, no information should be disclosed to an outside Agency.
- Only general, non-confidential information is to be entered in the Client Notes section of the Client Profile and Exit Notes section of Exit Data in ServicePoint. Confidential information, including TB diagnosis, HIV diagnosis or treatment information, domestic violence and mental and/or physical health information, is not permitted to be entered in these sections.
- Only client records pertaining to user's assigned work duties will be accessed.
- Only individuals that exist as clients under the Agency's jurisdiction may be entered into the HMIS.
- Personal User Identification and Passwords must be kept secure and are not to be shared.
- Users are required by the HUD standards to use a password-protected screensaver.
- When leaving the HMIS computer unattended, steps must be taken to ensure data security. It is best to log off the ServicePoint system so that private information will not be visible to others, especially to clients or the public.

- **ServicePoint shall only be accessed from the Agency’s network, desktops, laptops, minicomputers and any other electronic devices that are web capable. In rare exceptions, access from remote locations may be permitted after application and approval by Agency and System Administrators.**
- **Should the User download client identifiable information in any format, he or she will securely store and/or dispose of all electronic and hard copy information in a manner to protect the client’s personal information. At a minimum this will require the use of strong password protection (electronic protection), preferably including encryption, and/or secure, locked storage space (hard copy protection).**
- **Client records are not to be inactivated in ServicePoint by anyone other than the System Administrator. If, for some reason, an Agency needs to inactivate a client record, Agency Administrator should contact the Clackamas County HMIS System Administrators to explore if the record should be made inactive.**
- **Misrepresentation of the client by entering known inaccurate information is prohibited. Discriminatory comments based on race, color, religion, national origin, ancestry, handicap, age, sex, and sexual orientation are not permitted in the HMIS. Profanity and offensive language are not permitted in the HMIS.**
- **The HMIS is to be used for business purposes only. Transmission of material in violation of any United States Federal or State of Oregon regulations or laws is prohibited and includes material that is copyrighted, legally judged to be threatening or obscene, and considered protected by trade secret. The HMIS will not be used to defraud the Federal, State, or local government or an individual entity or to conduct any illegal activity.**
- **Any unauthorized access or unauthorized modification to HMIS computer system information or interference with normal system operations may result in immediate suspension of your access to the HMIS and may jeopardize your long term HMIS access.**
- **This agreement may be superseded by any additional or alternative agreements.**

Failure to comply with the provisions of this Agreement is grounds for immediate termination of your HMIS ServicePoint access. Your signature below indicates your willingness to comply with all of the requirements of this Agreement. There is no expiration date for this Agreement.

User Signature

Date

User Printed Name

November 4, 2021

Board of County of Commissioners
Clackamas County

Members of the Board:

Approval of a Sub-recipient Agreement with Northwest Housing Alternatives to Provide Homeless Shelter Services Funded with a HUD Emergency Solutions Grant of \$58,746
No County General Funds Involved

Purpose/ Outcome	The Emergency Solutions Grant (ESG) program is designed to: improve existing homeless shelters; provide funds to operate emergency shelters; provide essential social services to homeless individuals and; provide homeless prevention and rapid re-housing assistance.
Dollar Amount and Fiscal Impact	Emergency Solutions Grant (ESG) funds of \$58,746 as a grant.
Funding Source	U.S. Department of Housing and Urban Development ESG 2021-22 funds No County General Funds are included in this Agreement
Duration	July 1, 2021 to June 30, 2022
Previous Board Action/ Review	April 8, 2021 approval of the 2021 One-Year Action Plan which included a funding recommendation of \$58,746 of ESG funds for the Annie Ross House Homeless Shelter.
Strategic Plan Alignment	Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities.
County Review	The Sub-recipient Agreement was reviewed and approved by County Counsel AN on September 27, 2021.
Procurement Review	1. Was the item processed through Procurement? <i>yes</i> <input type="checkbox"/> <i>no</i> <input checked="" type="checkbox"/> 2. Item is a Sub-recipient Agreement that was processed through Finance Grant Management
Contact Person	Mark Sirois, Manager - Community Development: 503-655-8359
Contract No.	Sub-recipient Agreement 22-017 (H3S #10390)

BACKGROUND: The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Sub-recipient Agreement for eligible operating and maintenance expenditures for the Annie Ross House Homeless Shelter in Clackamas County, OR. In November of 2019 Northwest Housing Alternatives (NHA) applied for Emergency Solutions Grant (ESG) funding to operate a homeless shelter in Clackamas County. NHA was awarded 2 years of funding for FY 2020 and FY 2021. Each year a new Sub-recipient Agreement is signed.

PROJECT OVERVIEW: The Annie Ross House Homeless Shelter to provide homelessness prevention and shelter services among individuals and families who are homeless or receiving homelessness assistance.

It is expected that the funding under this ESG contract will assist approximately 60 homeless families with shelter services during the program year.

Healthy Families. Strong Communities.

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

Respectfully submitted,

Mary Rumbaugh

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

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 22-017**

Project Name: **ESG FY2021**

Project Number: **1792**

This Agreement is between **Clackamas County**, Oregon, acting by and through its
Health, Housing and Human Services Department,
Community Development Division ("COUNTY")
and **Northwest Housing Services, Inc.** ("SUBRECIPIENT"), an Oregon Nonprofit Organization.

Clackamas County Data

Grant Accountant: **Bouavieng Bounnam**

Program Manager: **Amy Council**

Clackamas County – Finance
2051 Kaen Road
Oregon City, OR 97045
Phone 503-742-5422
bbounnam@clackamas.us

Clackamas County – Community Development
2051 Kaen Road, Suite 245
Oregon City, OR 97045
Phone 971-349-2949
acouncil@clackamas.us

Subrecipient Data

Finance/Fiscal Representative: **Vickie Howard**

Program Representative: **Peter Rosenblatt**

Northwest Housing Alternatives, Inc.
2316 SE Willard Street
Milwaukie, OR 97222
Phone: 503-654-1007 ext.121
Email: howard@nwhousing.org

Northwest Housing Alternatives, Inc.
2316 SE Willard Street
Milwaukie, OR 97222
Phone: 503-654-1007 ext.121
Email: rosenblatt@nwhousing.org

DUNS: 180757437

RECITALS

1. This Agreement is entered into between COUNTY and SUBRECIPIENT to provide a basis for a cooperative working relationship for the purpose of implementing the Emergency Solutions Grant program ("ESG") contained in Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act, and regulations adopted under this Act at 24 CFR Part 576, dated October 26, 2011, as amended, and Public Law 100-77 as amended. The ESG program is designed to: improve existing homeless shelters; provide funds to operate emergency shelters, provide essential social services to homeless individuals; and, provide homeless prevention and rapid re-housing assistance.
2. COUNTY has been awarded ESG funds from the United States Department of Housing and Urban Development ("HUD") authorized by Subpart B of Title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11371-11378.
3. Funds provided by COUNTY shall be used for eligible operating and maintenance expenditures for the **Annie Ross House** in Milwaukie, OR.
4. In response to a Congressional directive, HUD has required all recipients of Stewart B. McKinney Homeless Assistance Act funds to implement a Homeless Management Information System ("HMIS").

HMIS is a community-wide software solution that is designed to collect client-level information on the characteristics and service needs of youth experiencing homelessness.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the Program (described below) incurred no earlier than **July 1, 2021** and not later than **June 30, 2022**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in the attached Exhibit A: Subrecipient Statement of Program Objectives. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations, including Subpart B of Title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11371-11378. Furthermore, SUBRECIPIENT shall comply with the requirements of the ESG award number E20-UC-41-0003 that is the source of the grant funding, in addition to compliance with requirements of Title IV of the *Code of Federal Regulations* ("CFR"), Part 24, Sub-Part 576. A copy of that grant award has been provided to SUBRECIPIENT by COUNTY, which is attached to and made a part of this Agreement by this reference. SUBRECIPIENT shall further comply with any requirements, terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
4. **Grant Funds.** COUNTY's funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UC-41-0003). The maximum, not to exceed, grant amount COUNTY will pay is **\$58,746**. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:
 - a. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
 - b. Mutual agreement by COUNTY and SUBRECIPIENT.
 - c. Written notice provided by COUNTY that HUD has determined ESG funds are no longer available for this purpose.

- d. Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

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

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

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

8. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 8.
10. **Nonprofit status.** SUBRECIPIENT warrants that it is, and shall remain during the performance of this Agreement, a private nonprofit Organization as defined in the Regulations, including:
 - a. That it is described in Section 501(c) of the Internal Revenue Code of 1954;
 - b. That it is exempt from taxation under Subtitle A of the Internal Revenue Code of 1954;
 - c. That it has an accounting system and a voluntary board; and
 - d. That it practices nondiscrimination in the provision of assistance to the homeless.
11. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.
 - c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT. Additionally, SUBRECIPIENT agrees to use funds provided only for eligible activities as described in 24 CFR 576 Subpart B.

- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- f) **Indirect Cost Recovery.** Indirect cost recovery is statutorily unavailable on this award.
- g) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- h) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- i) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit A (2.5).
- j) **Evaluation.** SUBRECIPIENT agrees to participate with COUNTY in any evaluation project or performance report, as designed by COUNTY or HUD, and to make available all information required by any such evaluation process.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by COUNTY or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.
- l) **Specific Conditions.** None.
- m) **Grantor Recognition.** SUBRECIPIENT shall ensure recognition of the role of COUNTY in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, SUBRECIPIENT will include reference to the support provided herein in all publications made possible with funds available under this Agreement.
- n) **Supplanting.** The funding made available under this Agreement shall not be utilized by SUBRECIPIENT to reduce substantially (i.e. supplant) the amount of local financial support for shelter and assistance activities below the level of such support prior to the availability of funds under this Agreement.
- o) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.344—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits F, G & H), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement. At closeout, SUBRECIPIENT must account for all residual supplies valued over \$5,000 in the aggregate that were purchased with Federal funds authorized by this Agreement. Compensation to the Federal Agency may be required for equipment or residual supplies valued over \$5,000 per 2 CFR 200.313 & 314.
- p) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering

System (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.

- q) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- r) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- s) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (“FAC”) within 9 months from SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from the SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- t) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.334-338. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY’S discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.

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

- u) **Records to be Maintained.** SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR 576.500 that are pertinent to the activities to be funded under this Agreement. Such records shall include but are not limited to:
 1. Client Eligibility Determinations and documentation;
 2. Rental Assistance Agreements;
 3. Service and assistance provided;
 4. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with ESG funds; Financial records as required by 24 CFR Part 576 Subpart F.
 5. Client Data. SUBRECIPIENT shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but is not limited to: client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to COUNTY monitors or their designees for review upon request.
 6. Disclosure. SUBRECIPIENT understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with administration of COUNTY's or SUBRECIPIENT's responsibilities with respect to services provided under this Agreement, is prohibited unless consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
 7. Property Records. SUBRECIPIENT shall maintain real property inventory records which clearly identify properties purchased, improved, or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions.
- v) **Record Retention.** SUBRECIPIENT shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.
- w) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for the ESG, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as COUNTY, under those grant documents.
- x) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold RECIPIENT grant funds until compliance is met, terminate this Agreement and all associated amendments, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.
- y) **Program Income.** SUBRECIPIENT shall report monthly all program income as defined at 2 CFR 200.1 generated by activities carried out with ESG funds made available under this Agreement. By way of further limitations, SUBRECIPIENT may use such income during the Agreement period for activities permitted under this Agreement and shall reduce request for additional funds by the amount

of any such program income balances on hand. All unused program income shall be returned to COUNTY at the end of the Agreement period.

12. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. See Exhibit A for additional requirements.
- b) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- c) **Lead-Based Paint.** SUBRECIPIENT agrees to comply with the Lead-Based Paint Poisoning Prevention Act and implementing regulations at 24 CFR Part 35.
- d) **Drug-Free Workplace Act of 1988.** SUBRECIPIENT agrees to comply with the requirements of 24 CFR Part 24 concerning the Drug-Free Workplace Act of 1988 by administering in good faith a policy designed to ensure that its facilities are free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.
- e) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- f) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- g) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- h) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT's

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

13. Federal and State Procurement Standards

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

14. General Agreement Provisions.

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

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

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

- 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.
- 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.

d) **Subagreements**

- 1) **Approvals.** SUBRECIPIENT shall not enter into any subagreements with any agency or individual in the performance of this Agreement without the written consent of COUNTY prior to the execution of such agreement.
 - 2) **Monitoring.** SUBRECIPIENT will monitor all subagreed services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions to correct areas of noncompliance.
 - 3) **Content.** SUBRECIPIENT shall cause all the provisions of this Agreement in its entirety to be included in and made a part of any subagreement executed in the performance of this Agreement.
 - 4) **Selection Process.** SUBRECIPIENT shall undertake to insure that all subagreements let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subagreements shall be forwarded to COUNTY along with documentation concerning the selection process.
- e) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- f) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- g) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- h) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

15. Other Federal Requirements

- a) The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a). Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).
- b) **Hatch Act.** SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United States Code.

- c) **Affirmative outreach.** SUBRECIPIENT must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the recipient or subrecipient intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. SUBRECIPIENT must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, SUBRECIPIENT is also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (“LEP”) persons.
- d) **Uniform Administrative Requirements.** The requirements of 2 CFR 200 apply to SUBRECIPIENT. These regulations include allowable costs and non-Federal audit requirements.
- e) **Religious Organization.** SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interest, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 576.406.
- f) **Environmental review responsibilities.**
 - 1) Activities under this part are subject to environmental review by HUD under 24 CFR Part 50. SUBRECIPIENT shall supply all available, relevant information necessary for COUNTY to perform for each property any environmental review required by 24 CFR part 50. At the instruction of COUNTY SUBRECIPIENT may be required to carry out mitigating measures required by COUNTY or select alternate eligible property. COUNTY may eliminate from consideration any application that would require an Environmental Impact Statement (“EIS”).
 - 2) SUBRECIPIENT, or any contractor of SUBRECIPIENT, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until COUNTY has performed an environmental review under 24 CFR part 50 and SUBRECIPIENT has received COUNTY approval of the property.
- g) **Davis-Bacon Act.** The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–5) do not apply to the ESG program.
- h) **Procurement of Recovered Materials.** SUBRECIPIENT and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (“EPA”) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- i) **Displacement, Relocation, and Acquisition.** Consistent with the other goals and objectives of ESG, SUBRECIPIENT must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under ESG.
- j) **Temporary relocation not permitted.** No tenant-occupant of housing (a dwelling unit) that is converted into an emergency shelter may be required to relocate temporarily for a project assisted

with ESG funds, or be required to move to another unit in the same building/complex. When a tenant moves for a project assisted with ESG funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601–4655, as described in paragraph (c) of this section, the tenant should be treated as permanently displaced and offered relocation assistance and payments consistent with that paragraph.

- k) **Non-displacement.** SUBRECIPIENT agrees to minimize displacement and comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (“URA”), and implementing regulations at 49 CFR Part 24 and (b) the requirements of 24 CFR 576.408 governing the ESG program. SUBRECIPIENT shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations, and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for an ESG-assisted project. SUBRECIPIENT also agrees to comply with applicable COUNTY ordinances, resolutions, and policies concerning the displacement of persons from their residences. Any activity which may result in a displaced person (defined in paragraph l. of this section) must be reported to COUNTY prior to the commencement of the activity. COUNTY shall determine the relocation assistance as provided in 24 CFR 576.408(c). All such assistance shall be subtracted from the ESG funds provided to SUBRECIPIENT.
- l) **Displaced Person.** For purposes of paragraph k. of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership, or association) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under the ESG program. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property.
- m) **Real property acquisition requirements.** The acquisition of real property, whether funded privately or publicly, for a project assisted with ESG funds is subject to the URA and Federal government wide regulations at 49 CFR Part 24, subpart B.
- n) **Appeals.** A person who disagrees with COUNTY’s (or SUBRECIPIENT’s, if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the recipient under 49 CFR 24.10. A low-income person who disagrees with the recipient’s determination may submit a written request for review of that determination by the appropriate HUD field office.

16. Civil Rights

- a) **Compliance.** SUBRECIPIENT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Order 11375 and 12086.
- b) **Nondiscrimination.** SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, nation origin, sex, disability, or other handicap, age, marital/familial status, or status with regard to public assistance. SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the issuing agency setting forth the provisions of this nondiscrimination clause.

- c) **Section 504.** SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1974, which prohibits discrimination against the handicapped in any Federally-assisted program. COUNTY shall provide SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

17. Affirmative Action

- a) **Plan.** SUBRECIPIENT agrees that it shall be committed to carry out pursuant to COUNTY's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- b) **Women and Minority Business Enterprises.** SUBRECIPIENT will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. SUBRECIPIENT may rely on written representation by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
- c) **Access to Records.** SUBRECIPIENT shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by COUNTY, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.
- d) **Notifications.** SUBRECIPIENT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Agreement or understandings, a notice, provided by the agency Agreementing officer, advising the labor union or worker's representative of SUBRECIPIENT's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e) **EEO/AA Statement.** SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that it is an Equal Opportunity or Affirmative Action employer.
- f) **Subcontracting Provisions.** SUBRECIPIENT will include the provisions of Paragraph 23, Civil Rights, and 24, Affirmative Action, in every subcontract or purchase orders, specifically or by reference, so that such provisions will be binding upon each of its subrecipients or subcontractors.

18. Employment Restrictions

- a) **Prohibited Activity.** SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.
- b) **Labor Standards.** SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with Davis-Bacon Act as amended, the provisions of Agreement: Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made

available to COUNTY for review upon request. SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all Agreements engaged under Agreements in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the COUNTY pertaining to such Agreements and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeyworkers; provide, that if wage rates higher than those required under the regulations are imposed by state or local laws, nothing hereunder is intended to relieve SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. SUBRECIPIENT will cause or require to be inserted in full, in all Agreements subject to such regulations, provisions meeting the requirements of this paragraph.

c) **Job Training and Employment for Low-income Residents -Section 3**

1) **Compliance.** Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Subtitle A, Part 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon COUNTY, SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients and subcontractors. Failure to fulfill these requirements shall subject COUNTY, SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. SUBRECIPIENT certifies and agrees that no agreements or other disability exist which would prevent compliance with these requirements.

a) SUBRECIPIENT further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and Agreements for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

b) SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the ESG funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award Agreements for work undertaken in connection to housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which ESG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

c) SUBRECIPIENT certifies and agrees that no agreement or other legal incapacity exists which would prevent compliance with these requirements.

2) **Notifications.** SUBRECIPIENT agrees to send to each labor organization or representative of worker with which it has a collective bargaining agreement or other Agreement or understanding,

if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

- 3) **Subcontracts.** SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the grantor agency. SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
19. **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
20. **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
21. **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
22. **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
23. **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
24. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
25. **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
26. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

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

NORTHWEST HOUSING ALTERNATIVES, INC.

By: Trell Anderson
Trell Anderson
Executive Director

CLACKAMAS COUNTY

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

Trell Anderson October 13, 2021
Printed Name Date

2316 SE Willard Street
Street Address

Milwaukie, OR 97222

City / State / Zip

Rodney A. Cook, Director - Health, Housing &
Human Services
Clackamas County

Date

Approved To Form:

Andrew Naylor (via email)
County Counsel
9/27/2021
Date

- Exhibit A: SUBRECIPIENT Statement of Program Objectives & Requirements
- Exhibit A.1 SUBRECIPIENT Scope of Work
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Lobbying Certificate
- Exhibit D: Required Financial Reporting and Reimbursement Request
- Exhibit E: Subrecipient Performance Reporting
- Exhibit F: Required Certifications
- Exhibit G: Final Financial Report

- Attachment A: ESG Policies

EXHIBIT A

SUBRECIPIENT STATEMENT OF PROGRAM OBJECTIVES & REQUIREMENTS

1. Scope of Cooperation

- a. **HMIS.** SUBRECIPIENT shall ensure that data on all persons served and all activities assisted under ESG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If SUBRECIPIENT is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS
- b. **ESG Program Policies.** SUBRECIPIENT agrees to adhere to the Clackamas County ESG Program Policy Manual which is attached and made part of this agreement as Attachment A.

2. Program Requirements

- a. Coordination with other targeted homeless services.
 - i. SUBRECIPIENT must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with other programs targeted to homeless people in the area covered by the Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area. The list of programs are included in 24 CFR 576.400(b).
 - ii. System and program coordination with mainstream resources. SUBRECIPIENT must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible. Examples of these programs are included in 24 CFR Part 576.400(c).
- b. Coordinated Housing Assessment. The Continuum of Care has developed a coordinated assessment system in accordance with requirements to be established by HUD, each ESG-funded program or project within the Continuum of Care's area must use that assessment system. SUBRECIPIENT must work with COUNTY to ensure the screening, assessment and referral of program participants are consistent with the written standards required by the Continuum of Care's coordinated assessment system. A victim service provider may choose not to use the Continuum of Care's coordinated assessment system.
- c. SUBRECIPIENT must establish and consistently apply written standards for providing ESG assistance. At a minimum these written standards must include:
 - i. Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under ESG;
 - ii. Standards for targeting and providing essential services related to street outreach;
 - iii. Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
 - iv. Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
 - v. Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see § 576.400(b) and (c) for a

- list of programs with which ESG-funded activities must be coordinated and integrated to the maximum extent practicable);
- vi. Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance;
 - vii. Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re-housing assistance;
 - viii. Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and
 - ix. Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance, or the maximum number of times the program participant may receive assistance.
- d. Participation in HMIS. SUBRECIPIENT shall ensure that data on all persons served and all activities assisted under ESG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If SUBRECIPIENT is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.
 - e. Evaluations. SUBRECIPIENT must conduct an initial evaluation to determine the eligibility of each individual or family's eligibility for ESG assistance and the amount and types of assistance the individual or family needs to regain stability in permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under 24 CFR § 576.400(d) and the written standards established under 24 CFR § 576.400(e).
 - f. Re-evaluations for homelessness prevention and rapid re-housing assistance. SUBRECIPIENT must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs not less than once every 3 months for program participants receiving homelessness prevention assistance, and not less than once annually for program participants receiving rapid re-housing assistance. At a minimum, each reevaluation of eligibility must establish that:
 - i. The program participant does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD; and
 - ii. The program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance.
 - g. Annual income. When determining the annual income of an individual or family, SUBRECIPIENT must use the standard for calculating annual income under 24 CFR 5.609.
 - h. Connecting program participants to mainstream and other resources. SUBRECIPIENT must assist each program participant, as needed, to obtain:
 - i. Appropriate supportive services, including assistance in obtaining permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
 - ii. Other Federal, State, local, and private assistance available to assist the program participant in obtaining housing stability. The list of programs is included in 24 CFR Part 576.400(c).
 - i. Housing stability case management.
 - i. While providing homelessness prevention or rapid re-housing assistance to a program participant, SUBRECIPIENT must:

- a) Require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability; and
 - b) Develop a plan to assist the program participant to retain permanent housing after the ESG assistance ends, taking into account all relevant considerations, such as the program participant's current or expected income and expenses; other public or private assistance for which the program participant will be eligible and likely to receive; and the relative affordability of available housing in the area.
 - (1) SUBRECIPIENT is exempt from this requirement if the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) prohibits SUBRECIPIENT from making its shelter or housing conditional on the participant's acceptance of services.
- j. Terminating assistance.
- i. If a program participant violates program requirements, SUBRECIPIENT may terminate the assistance in accordance with a formal process established by COUNTY that recognizes the rights of individuals affected. SUBRECIPIENT must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases.
 - ii. Program participants receiving rental assistance or housing relocation and stabilization services. To terminate rental assistance or housing relocation and stabilization services to a program participant, the required formal process, at a minimum, must consist of:
 - a) Written notice to the program participant containing a clear statement of the reasons for termination;
 - b) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
 - c) Prompt written notice of the final decision to the program participant.
 - iii. Ability to provide further assistance. Termination under this section does not bar SUBRECIPIENT from providing further assistance at a later date to the same family or individual.
- k. Shelter and housing standards.
- i. Lead-based paint remediation and disclosure. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG program and all housing occupied by program participants.
 - ii. Minimum standards for emergency shelters. Any building for which Emergency Solutions Grant (ESG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards. The recipient may also establish standards that exceed or add to these minimum standards.
 - a) Structure and materials. The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with ESG assistance must use Energy Star and WaterSense products and appliances.
 - b) Access. The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and 28 CFR part 35; where applicable.

- c) Space and security. Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.
 - d) Interior air quality. Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
 - e) Water supply. The shelter's water supply must be free of contamination.
 - f) Sanitary facilities. Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
 - g) Thermal environment. The shelter must have any necessary heating/cooling facilities in proper operating condition.
 - h) Illumination and electricity. The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
 - i) Food preparation. Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
 - j) Sanitary conditions. The shelter must be maintained in a sanitary condition.
 - k) Fire safety. There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.
- I. Minimum standards for permanent housing. The recipient or subrecipient cannot use ESG funds to help a program participant remain or move into housing that does not meet the minimum habitability standards provided in this section I. The recipient may also establish standards that exceed or add to these minimum standards.
- i. Structure and materials. The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.
 - ii. Space and security. Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.
 - iii. Interior air quality. Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
 - iv. Water supply. The water supply must be free from contamination.
 - v. Sanitary facilities. Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
 - vi. Thermal environment. The housing must have any necessary heating/cooling facilities in proper operating condition.
 - vii. Illumination and electricity. The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.
 - viii. Food preparation. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
 - ix. Sanitary conditions. The housing must be maintained in a sanitary condition.
 - x. Fire safety.

- a) There must be a second means of exiting the building in the event of fire or other emergency.
 - b) Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing impaired persons in each bedroom occupied by a hearing-impaired person.
 - c) The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.
- m. Organizational conflicts of interest. The provision of any type or amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, SUBRECIPIENT, or a parent or subsidiary of SUBRECIPIENT. No subrecipient may, with respect to individuals or families occupying housing owned by SUBRECIPIENT, or any parent or subsidiary of SUBRECIPIENT, carry out the initial evaluation required under 24 CFR § 576.401 or administer homelessness prevention assistance under 24 CFR § 576.103.
- n. Individual conflicts of interest. For the procurement of goods and services, SUBRECIPIENT must comply with the codes of conduct and conflict of interest requirements under 24 CFR 84.42. For all other transactions and activities, the following restrictions apply:
- i. Conflicts prohibited. No person described in paragraph n of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under the ESG program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.
 - ii. Persons covered. The conflict-of-interest provisions of paragraph (n)(i) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of SUBRECIPIENT.
 - iii. Exceptions. Upon the written request of the recipient, COUNTY, in conjunction with HUD, may grant an exception to the provisions of this subsection on a case-by-case basis, taking into account the nature of the conflict and the factors listed below:
 - a) Threshold requirements. COUNTY and HUD will consider an exception only after the recipient has provided an opinion of the recipient's attorney that the interest for which the exception is sought would not violate state or local law.
 - b) Factors to be considered for exceptions. In determining whether to grant a requested exception after SUBRECIPIENT has satisfactorily met the threshold requirements, HUD must conclude that the exception will serve to further the purposes of the ESG program and the effective and efficient administration of SUBRECIPIENT's program or project, taking into account the cumulative effect of the following factors, as applicable:
 - (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - (2) Whether an opportunity was provided for open competitive bidding or negotiation;
 - (3) Whether the affected person has withdrawn from his or her functions, responsibilities or the decision-making process with respect to the specific activity in question;
 - (4) Whether the interest or benefit was present before the affected person was in the position in which the conflict of interest may have occurred;

- (5) Whether undue hardship results to SUBRECIPIENT, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and
 - (6) Any other relevant considerations.
 - iv. Contractors. All contractors of SUBRECIPIENT must comply with the same requirements that apply to subrecipients under this section.
- o. Homeless Participation.
 - i. SUBRECIPIENT must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of SUBRECIPIENT, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under ESG.
 - ii. If SUBRECIPIENT is unable to meet the homeless participation requirement, it must instead develop and implement a plan to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under ESG. The plan must be submitted to COUNTY to be included in the annual action plan required under 24 CFR 91.220.
 - iii. To the maximum extent practicable, SUBRECIPIENT must involve homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under ESG, in providing services assisted under ESG, and in providing services for occupants of facilities assisted under ESG.

EXHIBIT A.1

SUBRECIPIENT SCOPE OF WORK

I. Scope of Work for: The ESG Emergency Shelter

SUBRECIPIENT agrees to accomplish the following work under this Agreement:

A. Provide emergency shelter services to homeless families including:

- Safety planning
- Advocacy and assistance navigating systems
- Case management
- Crisis intervention
- Information and Referral
- Support groups
- Counseling

B. It is expected that the funding under this ESG Agreement will assist approximately 50 homeless families with shelter services during the **July 1, 2021 to June 30, 2022** program year.

EXHIBIT B

SUBRECIPIENT PROGRAM BUDGET

- A. The total compensation under this contract shall not exceed \$58,746 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Program Costs	Amount	Source of Funds
		-Unrestricted agency funds -Government funding (confirmed): H3S: Emergency Shelter Grant Community Development: ESG
Shelter Staffing	\$453,013	Community Development CDBG
Shelter Utilities	\$23,500	Unrestricted agency funds
Shelter Maintenance	\$22,391	Unrestricted agency funds
Shelter Supplies	\$24,362	Unrestricted agency funds
Insurance	\$5,600	Unrestricted agency funds
Food (Community Events)	\$4,949	Unrestricted agency funds
Other (training, client assistance, program overhead, occupancy, admin support, depreciation)	\$253,713	Unrestricted agency funds
Total Shelter Expenses	\$787,528	
Total ESG:	\$58,746	

EXHIBIT C: CONGRESSIONAL LOBBYING CERTIFICATE

The undersigned certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96)]. Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.).

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The Authorized Representative certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Organization understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Northwest Housing Alternatives

Organization Name

Award Number or Project Name

Trell Anderson, Executive Director

Name and Title of Authorized Representative



October 13, 2021

Signature

Date

**Exhibit D
REQUEST FOR REIMBURSEMENT**

**Note: This form derives from the approved budget in your grant Agreement.
Please follow instructions for completing this form as outlined in Exhibit D.1.**

Subrecipient <u>Northwest Housing Alternatives</u>	Grant Number: <u>22-017</u>
Address: _____	Report Period: _____
	Contract #: _____
Contact Person: _____	Federal Award #: <u>E20-UC-41-0003</u>
Phone Number: _____	CFDA(s): <u>14.231</u>
E-mail: _____	

Budget Category	Budget	Current Draw Request	Previously Requested	Balance
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
Total Grant Funds Requested	\$ -	\$ -	\$ -	\$ -

ATTACH ALL RECEIPTS AND REQUIRED CLIENT DOCUMENTATION.

Clackamas County and the Federal government retain the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient that are pertinent to this Agreement.

CERTIFICATION

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Prepared by: _____

Authorized Signer: _____

Date: _____

Department Review

Project Officer Name: _____

Department: _____

Signature: _____

Date: _____

EXHIBIT D.1: REIMBURSEMENT INSTRUCTIONS

Reimbursement by COUNTY will be within 30 days of receipt of acceptable countersigned itemized invoices or billings reflecting the actual cost to SUBRECIPIENT of eligible expenses. Each invoice shall be accompanied with a detailed Request for Reimbursement (Exhibit D) which shall include appropriate documentation. This documentation shall include signed and approved timecards for personnel expenses and itemized invoices or billings for materials and services.

- COUNTY must provide HUD with specific household demographic information for each household served by ESG funds. The household information will be collected from SUBRECIPIENT and must accompany the first SUBRECIPIENT invoice for each household.
- The request for reimbursement shall also include a summary of expenses incurred for each household along with source documentation. In addition, an HMIS report documenting the type and amount of financial assistance for each household shall accompany the invoice.
- Information on the request for reimbursement form, the household demographics, the source documentation and the summary of expenses incurred for each specific household from the HMIS reports must all correlate. See Attachment B.

EXHIBIT E: PERFORMANCE REPORTING REQUIREMENTS

SUBRECIPIENT will comply with:

- All current HMIS Policy & Procedures;
- HMIS Participation Agreement;
- All ESG HMIS reporting requirements developed by COUNTY;
- SUBRECIPIENT will provide documentation to COUNTY annually on the project activities completed in accordance with this Agreement.

EXHIBIT F

Required Certifications

I, Trell Anderson, Executive Director of Northwest Housing Alternatives, Inc. (“SUBRECIPIENT”) certify the provision of the matching supplemental funds required by the regulation 24 CFR 576.201. A description of the sources and amounts of such supplemental funds are included in the Attachment B agency Fiscal Year operating budget.

ESG Certifications

The Emergency Solutions Grants Program SUBRECIPIENT certifies that:

Major rehabilitation/conversion – If an emergency shelter’s rehabilitation costs exceed 75 percent of the value of the building before rehabilitation, SUBRECIPIENT will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed rehabilitation. If the cost to convert a building into an emergency shelter exceeds 75 percent of the value of the building after conversion, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed conversion. In all other cases where ESG funds are used for renovation, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 3 years after the date the building is first occupied by a homeless individual or family after the completed renovation.

Essential Services and Operating Costs – In the case of assistance involving shelter operations or essential services related to street outreach or emergency shelter, SUBRECIPIENT will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure, so long the jurisdiction serves the same type of persons (e.g., families with children, unaccompanied youth, disabled individuals, or victims of domestic violence) or persons in the same geographic area.

Renovation – Any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary.

Supportive Services – SUBRECIPIENT will assist homeless individuals in obtaining permanent housing, appropriate supportive services (including medical and mental health treatment, victim services,

counseling, supervision, and other services essential for achieving independent living), and other Federal State, local, and private assistance available for such individuals.

Matching Funds – SUBRECIPIENT will obtain matching amounts required under 24 CFR 576.201 and as outlined in Exhibit G.

Confidentiality – SUBRECIPIENT has established and is implementing procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of that shelter.

Homeless Persons Involvement – To the maximum extent practicable, SUBRECIPIENT will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the ESG program, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted under the program.

Consolidated Plan – All activities SUBRECIPIENT undertakes with assistance under ESG are consistent with the jurisdiction's consolidated plan.

Discharge Policy – SUBRECIPIENT will establish and implement, to the maximum extent practicable and where appropriate policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, mental health facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent this discharge from immediately resulting in homelessness for these persons.

HMIS – SUBRECIPIENT will comply with HUD's standards for participation in the local Homeless Management Information System and the collection and reporting of client level information.

The requirement that SUBRECIPIENT involve, to the maximum possible extent practicable and where appropriate, homeless individuals and families in policy making, renovating, maintaining, and operating facilities assisted under the ESG program is met in the following manner:

Jill Anderson October 13, 2021
Signature/Authorized Official Date

Executive Director
Title

Project Name: ESG FY2021	Agreement #: 22-017
Federal Award #: E20-UC-41-0003	Date of Submission: XX/XX/XX
Subrecipient: NORTHWEST HOUSING ALTERNATIVES, INC.	
Has Subrecipient submitted all requests for reimbursement? Y/N	
Has Subrecipient met all programmatic closeout requirements? Y/N	

EXHIBIT G: Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

Total Federal Funds authorized on this agreement:	
Year-to-Date Federal Funds requested for reimbursement on this agreement:	
Total Federal Funds received on this agreement:	
Balance of unexpended Federal Funds (Line 1 minus Line 3):	

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

ATTACHMENT A: ESG POLICIES

2019 ESG and CoC Policy Manual sent via email to NHA on October 5, 2021.
Recipients of the email for NHA: Peter Rosenblatt and Vickie Howard.

November 4, 2021

Board of County of Commissioners
Clackamas County

Members of the Board:

Approval of a Cooperation Agreement with Clackamas Service Center
Grant funds of \$650,000 through Community Development Block Grant.
No County General Funds

Purpose/ Outcome	Signature approval of a Cooperation Agreement to fund a portion of the construction expenses for Clackamas Services Center Expansion Project that will provide increased homeless services capacity in Clackamas County.
Dollar Amount and Fiscal Impact	Community Development Block Grant CARES Act funds (CDBG CV3) of \$ 650,000: CDBG Funds as a grant \$ 300,000: Other CSC grant Funds \$ 950,000: Total estimated project costs
Funding Source	U.S. Department of Housing and Urban Development CDBG CARES Act funds No County General Funds are included in this Agreement
Duration	Upon signature to 20 years after completion of the project (est. 2042)
Previous Board Action/ Review	October 29, 2020 BCC approval of application for CDBG CV3 funds. July 20, 2021 BCC policy session, project funding recommendations approved.
Strategic Plan Alignment	Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities.
County Review	The Cooperation Agreement was reviewed and approved by County Counsel AN on 10/12/2021.
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Working with Finance Grants, Community Development Division distributed a Notice of Funding Opportunity (NOFO)
Contact Person	Mark Sirois, Manager - Community Development: 503-655-8591
Contract No.	H3S# 10280

BACKGROUND: The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Cooperation Agreement for the Clackamas Services Center (CSC) Expansion Project that will expand and improve the homeless services in northern Clackamas County.

The County applied for this CDBG CARES ACT grant funding in October 2020. In May of 2021, the Community Development Division advertised and distributed a Notice of Funding Opportunity (NOFO). The purpose of the NOFO was to partner with community based organizations (“CBO”) to assist eligible low-income County residents impacted by COVID-19 with health care services and homeless shelter and services. A total of six (6) proposals were submitted. All were reviewed and evaluated in the context of other available and awarded state and federal funding for these types and projects and services in Clackamas County. This health clinic project was one of two projects recommended to the BCC for funding.

Healthy Families. Strong Communities.

PROJECT OVERVIEW: This CSC Homeless Services Center Expansion construction project will renovate and expand an existing homeless service center buildings to allow for more homeless people to be offered access to services including healthcare to prevent the coronavirus from spreading in Clackamas County. The Clackamas Service Center homeless shelter is located at 8800 SE 80th Ave. Portland, OR 97206 in Clackamas County.

The Community Development Division is working with CSC and an architecture firm to prepare a construction bid package for advertising in January 2022. It is anticipated that the construction will begin in March of 2022.

RECOMMENDATION: We recommend signature approval of this Cooperation Agreement

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Rumbaugh".

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

Attached: Cooperation Agreement.

COOPERATION AGREEMENT

Between

CLACKAMAS COUNTY, OREGON

And

CLACKAMAS SERVICE CENTER, INC.

I. Background

- A. This Cooperation Agreement (this “Agreement”) is entered into between Clackamas County, through its Community Development Division, a political subdivision of the State of Oregon (“County”) and the Clackamas Service Center, Inc., an Oregon non-profit corporation (“CSC”) to construct renovations to CSC’s service center and the center annex buildings located at 8800 SE 80th Ave, Portland, OR 97206 in Clackamas County (the “Project”).
- B. CSC is a 501(c)3 nonprofit organization founded in 1973 and headquartered in Clackamas County. The CSC mission is to be an inclusive, trauma-informed "one-stop-shop" where community members experiencing hunger and poverty can meet their basic food, health, and hygiene needs, and connect with supportive services to help them take their next steps toward stability and self-sufficiency.
- C. Based on the demographics of the population that CSC serves, the County has determined that the Project meets a national objective and is eligible for Community Development Block Grant (“CDBG”) COVID funds provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, that was signed into law on March 27, 2020 to help respond to the coronavirus outbreak. The CARES Act allocated additional CDBG COVID funding for Clackamas County to be used to prevent, prepare for, and respond to the Coronavirus (COVID-19). The Project will help prevent the coronavirus outbreak by providing expanded facility space for hygiene supplies and health care services referrals to homeless and low-income persons that are vulnerable to this coronavirus.
- D. The County will provide partial funding for the Project, and will be responsible for bidding, negotiating, and managing any public contracts with third parties necessary to complete the Project. CSC will be responsible for matching a certain percentage of the total Project cost, as detailed in this Agreement, and for any costs incurred on the Project in excess of the funds contributed by the County, and will coordinate with County and any third party the County contracts with to complete the Project.

II. Consideration

- A. The County agrees to provide CDBG funds toward the Project in a sum not to exceed **\$650,000.00** (“CDBG Funds”). The CDBG Funds allocated for the Project will be paid directly to any contractor hired by County to perform the work on the Project (“Contractor”) upon full execution of a construction contract. CSC agrees to pay all Project costs incurred in excess of the CDBG Funds, including any change orders or other additional expenses related to the construction contract. Project costs include, but are not limited to, construction costs permitted under the contract with the Contractor to complete the Project as well as approved change orders. CSC is further responsible for providing a minimum 20% match contribution towards the Project costs, as detailed in Article IV, below.

The parties anticipate that the total costs of completing the Project will not exceed the sum of \$1,200,000 dollars. If, following receipt of construction bid proposals as part of the County’s public bid process, either party determines the Project cannot be completed with available funds, the County and CSC agree to negotiate, in good faith, a possible modification of the Project or this Agreement to accommodate funding limitations. If the parties are unable to reach an agreement as to a modified Project or amendment to the Agreement, this Agreement shall terminate, the parties shall bear their own costs incurred as of the date of termination, and the parties shall have no further obligations regarding this Agreement.

- B. **Payment.** The Contractor will submit monthly invoices to County for work performed to complete the Project and shall include the total amount billed to date prior to the current invoice. Invoices shall describe all work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. County shall make payment(s) to the Contractor in the time and manner set forth in the construction contract with Contractor. CDBG Funds will be used first to pay the Contractor. Once the County has expended all of the CDBG Funds allocated for the Project, CSC will pay County all additional amounts necessary to complete the Project on a reimbursement basis as follows: County will submit monthly invoices for amounts paid to the Contractor, and CSC shall make payment to County within twenty one (21) days of receipt of each invoice. CSC will reimburse County for all amounts owed to the Contractor in excess of the CDBG Funds provided by County under this Agreement. Payment shall be made to County at the following address:

Clackamas County
Public Services Building-Department of Finance
2051 Kaen Road, Fourth Fl.
Oregon City, OR 97045

- C. **Security.** On or before execution of any contract between County and Contractor to perform the work on the Project, CSC shall provide security for the performance of its obligation to pay all costs incurred in excess of the CDBG Funds provided by County under this Agreement. The security provided must be in a form acceptable to County, in its sole discretion, and must provide, at a minimum, sufficient funds to pay all Project costs that may be incurred by Contractor to complete the Project. The security requirement provided herein is a condition precedent to County’s execution of a contract

between County and Contractor. CSC’s failure to provide acceptable security to County shall permit County to immediately terminate this Agreement. County shall have the right to draw upon the security provided herein in the event CSC fails to make payment to County in accordance with its payment obligations set forth in Subsection (B), above.

III. Scope of Responsibilities

A. Under this Agreement, the responsibilities of CSC shall be as follows:

1. CSC shall provide all necessary supervisory and administrative support to assist the County with the completion of the Project.
2. CSC shall obtain any easements or approvals necessary to allow access onto private property through the course of the Project. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (“URA”). If assistance is needed for URA guidance, the County has a Right-Of-Way Acquisition Specialist that CSC may consult.
3. CSC shall provide architectural services for the design and construction oversight of the Project. Such services shall be provided at no cost to the County. CSC shall assume responsibility for ensuring the following:
 - a. CSC shall hire a registered professional architect (“Architect”) to prepare all plans and specifications necessary to publicly bid the Project for award to a contractor and provide construction oversight of the Project. The Architect firm may donate staff time as well as donate materials for the Project.
 - b. CSC will ensure that the Architect agrees to indemnify, defend, and hold 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 Architect or the Architect’s employees, subcontractors, or agents.
 - c. CSC shall require the Architect to maintain insurance policies in the amounts and types set forth in the table below. CSC shall further require the Architect to name the County as an additional insured on all required policies. CSC shall ensure the coverage set forth below include contractual liability insurance for the indemnity provided under this Agreement.

Minimum Insurance Requirements For Architect:

	Commercial General Liability:	Automobile Liability Commercial:	Professional Liability:
Architects	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000

- d. CSC shall require the Architect to maintain in force such coverage for not less than three (3) years following completion of the Project. Such insurance shall provide 30 days written notice to the County in the event of cancellation, non-renewal, 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. The insurance company will provide written notice to the County within thirty (30) days after any reduction on the general annual aggregate limit.
 - e. CSC shall provide County proof of insurance within thirty (30) days of execution of this Agreement.
 - f. CSC shall ensure that the Architect's responsibilities include, but are not limited to, the following:
 - (1) During construction the Architect shall endeavor to guard the County against apparent defects and deficiencies in the permanent work constructed by the Contractor.
 - (2) All reports and recommendations concerning construction shall be submitted to the County for its approval.
 - (3) In the event modifications to the construction contract, which result in an increase in the contract amount, are made without the prior approval of the County, CSC shall be solely responsible for all costs associated with these modifications.
4. CSC will bear the risk of loss from fire, extended coverage, and all other accidents coverable by an owner's liability insurance policy and will purchase and maintain property insurance on all Project property. CSC will bear the risk of loss from accidents coverable by owner's liability insurance.
 5. CSC shall provide all necessary supervisory and administrative support to assist the County with the completion of the Project. CSC will submit to County for its approval all reports and recommendations concerning construction of Project.
 6. Upon completion of the Project, CSC:
 - a. Agrees to accept the improvements and responsibility for any claims arising out of or related to the Project from that point forward;
 - b. Agrees to become the successor of the Project construction contract and assume all of the corresponding rights and responsibilities; and
 - c. Agrees to continue operating the Property as a homeless services center for at least 20 years.
 7. CSC agrees to report to the County information on the race and head-of-household status for each client. The report shall cover the period between July 1 to June 30 for each year or partial year after completion of the Project. The report shall be on the form attached hereto as Attachment A and incorporated by this reference herein, and shall be submitted to the County no later than the 31st day of August.

8. CSC agrees to maintain ownership of the Property for a period of not less than twenty years (20) from the fully executed date of this Agreement. Immediately upon execution of this Agreement, CSC shall have a Declaration of Land Use Restrictive Covenants (“DLURC”) recorded with the County’s Recorders Office acknowledging the use of CDBG funds in the renovation of the property and imposing restrictions on future use of the property. A copy of the DLURC is attached hereto as ATTACHMENT B and incorporated by this reference herein.
 9. CSC agrees to inform the County in writing prior to making any change in the use of the Property. Should the new use not meet HUD eligibility criteria, and/or the clients no longer meet the HUD income guidelines, CSC shall reimburse County as provided under applicable law including, but not limited to, the requirements of 24 CFR 570.505. In no event will CSC’s reimbursement obligations be less than the full amount of CDBG funds provided by the County under this Agreement.
 10. Should the Property be sold and converted to a non-qualifying use at any time before expiration of the twenty (20) year period set forth in the DLURC to a non-qualifying use, CSC agrees to reimburse the County as provided under applicable law including, but not limited to, the requirements of 24 CFR 570.505. In no event will CSC’s reimbursement obligations be less than the full amount of CDBG funds provided by the County under this Agreement.
 11. CSC shall comply with all applicable provisions of 24 CFR Part 200.
 12. Contemporaneous with execution of this Agreement, CSC shall complete and submit a Matching Funds Report following completion of the Project, attached hereto as ATTACHMENT C and incorporated by this reference herein.
- B. Under this Agreement, the responsibilities of the County will be as follows:
1. The County agrees to provide and administer available the CDBG Funds granted by the U.S. Department of Housing and Urban Development (“HUD”) to finance the Project, subject to the limitations contained in Section IV, below.
 2. County shall conduct an environmental assessment of the Project as required in 24 CFR 570.604.
 3. The County will bid and contract for construction of the Project.
 4. The County, with the advice of the CSC, will approve changes, modifications, or amendments as necessary to serve the public interest.
 5. The County shall provide reasonable and necessary staff for administration of the Project. A Project coordinator from the County’s Community Development Division will assist with the Project management, coordination and contract administration.
 6. The responsibilities of the Project coordinator shall include:
 - a. Prepare a bid packet to be advertised in a local contractor’s publication;
 - b. Conduct the bid opening on the date determined by all parties;
 - c. Hire a general contractor via the lowest responsible and responsive bidder;
 - d. Issue a notice to proceed after the construction contract is approved;

- e. Conduct a pre-construction conference with the general contractor and CSC, and the Architect;
- f. Coordinate with the Architect, CSC and general contractor throughout construction of the Project;
- g. Administration of federal and state prevailing wage requirements;
- h. Complete all closeout paperwork and complete all federal reporting requirements;
- i. With the approval of the Architect and both parties;
 - (1) Make payment to the contractor;
 - (2) Release retainage funds to the contractor as appropriate; and
 - (3) Notify CSC of their responsibilities for all warranty related issues after the release of retainage.

IV. Budget and Financial Responsibilities

- A. The County will procure and manage the contract for construction of the Project pursuant to Article III, above. The obligations of the County are expressly subject to the County receiving funds from HUD for the Project, and in no event shall the County's financial contribution exceed the amount finally granted, released and approved by HUD for this Project.
- B. Expenditure of contingency funds if any, will require joint approval of the County and CSC in accordance with the terms the construction contract. Any change orders will be handled in the following manner:
 1. In the event that unforeseeable conditions arise which necessitate the execution of a change order, the County will execute a change order(s) subject to a determination that funds are available.
 2. Funds for the change order(s) shall be split 80% County and 20% CSC, provided CDBG funds are still available. In the event all CDBG funds have been expended, CSC shall be solely responsible for all additional costs under the change order.
- C. CSC shall be solely responsible for all costs which exceed available CDBG funds budgeted for the Project.
- D. In no event shall CSC financial participation be less than twenty percent (20%) of the Project costs.
- E. In the event the Project cannot be completed with available funds, the County and CSC will jointly determine the priorities of the improvements to be made within funding limits.

V. Liaison Responsibility

Debra Mason will act as liaison from CSC for the Project. Steve Kelly will act as liaison from the County for the Project.

VI. Special Requirements

- A. Law and Regulations. The County and CSC agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.

- B. Relationship of Parties. Each party is an independent contractor with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- C. Indemnification. CSC 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, any act, omission, or neglect of CSC, its subcontractors, agents, or employees. CSC agrees to indemnify, hold harmless and defend 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 (1) damage or injuries to persons or property caused by the errors, omissions, fault or negligence of CSC or the CSC's employees, subcontractors, or agents; or (2) CSC's breach of any term or condition of this Agreement including, but not limited to, any claim by the Contractor for amounts due and owing to complete construction of the Project. However, neither CSC nor any attorney engaged by CSC shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall CSC settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
- D. Notice of Claims. Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Agreement.
- E. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of ten (10) years after Project completion under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- F. Access to Records. The County, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of CSC which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- G. 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. Obligations of the County are also expressly subject to the County receiving funds from HUD for this Project.
- H. Conflict of Interest. No officer, employee, or agent of CSC or County who exercises any functions or responsibilities in connection with the planning and carrying out of the CDBG Program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the parties shall take appropriate steps to assure compliance. The parties will insure that no contractor,

subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services.

- I. Insurance. CSC will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all CSC property involved in the Project. CSC will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. CSC shall maintain flood insurance. CSC shall, at the CSC's expense, keep in effect during the term of this Agreement the following insurance coverage: Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of the County, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement.
- J. Nondiscrimination. CSC and the County agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, familial status, or the presence of any mental or physical disability. These requirements are primarily specified in ORS Chapter 659A; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.
- K. Handicapped Accessibility. CSC agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.
- L. Nonsubstituting for Local Funding. The CDBG Funds made available under this Agreement shall not be utilized by CSC to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.
- M. Evaluation. CSC agrees to participate with the County in any evaluation Project or performance report, as designed by the County or the appropriate Federal department, and to make available all information required by any such evaluation process.
- N. Audits and Inspections. CSC will ensure that the County, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property pertaining to the funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts.
- O. Acquisition. If completion of the Project requires acquisition of any real property the parties agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.

- P. Change of Use. CSC agrees to comply with applicable change of use provisions contained in 24 CFR 570.505.
- Q. Reversion of Assets. Upon expiration or termination of this Agreement, CSC shall transfer to County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. For any real property under CSC control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000, CSC shall ensure said real property is either:
1. Used to meet one of the National Objectives in 24 CFR 570.208 for the term of this Agreement; or
 2. Not used to meet on the National Objectives for the term of this Agreement, in which event CSC shall pay to County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

VII. Additional Terms and Conditions

- A. This Agreement becomes effective when it is signed by both Parties.
- B. The term of this CDBG Grant Agreement is a period beginning when it becomes effective and ending twenty (20) years from completion of the Project.
- C. This Agreement may be suspended or terminated prior to the expiration of its term by:
1. Mutual agreement by the County and CSC;
 2. Either the County or CSC 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.
 3. The County may terminate this Agreement in the event the County fails to receive expenditure authority sufficient to allow the County, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project or performance under this Agreement is prohibited or the County is prohibited from paying for such work from the planned funding source.
 4. Upon termination of this Agreement, any unexpended CDBG Funds shall remain with the County.

5. If this Agreement is terminated by the County due to a breach by CSC, then the County shall have any remedy available to it in law or equity.

D. Compliance and Further Assurances. CSC shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. CSC agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary for County to comply with applicable Federal requirements. All terms and conditions required under applicable federal law regarding CDBG or use of CDBG Funds are hereby incorporated by this reference herein.

E. Integration. This Agreement contains the entire agreement between CSC and the County and supersedes all prior written or oral discussions.

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. Oregon Law and Forum. This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and CSC that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. CSC, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

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

I. Survival. All provisions in Article II, Article III, Article IV, Article VI, Sections (B), (C), (D), (E), (F), (G), (N), (O), (P), and (Q), and Article VII, Sections (C), (D), (E), (F), (G),

(H), (I), (J), (L), and (N), shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.

- J. 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.
- K. Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- L. Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- M. Force Majeure.** Neither CSC nor County shall be held responsible for delay or default caused by events outside of the CSC or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, CSC shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- N. No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses

[Signature Page Follows]

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 SERVICE CENTER, INC.

8800 SE 80th Ave.
Portland, OR 97206



Debra Mason, Executive Director

10.12.21

Date

CLACKAMAS COUNTY


Commissioner Tootie Smith, Chair
Commissioner Sonya Fischer
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Mark Shull

Clackamas County,

Tootie Smith, Chair

Date

COUNTY COUNSEL



Andrew Naylor
Approved to Form

10/12/2021

Date

ATTACHMENT A

COMMUNITY DEVELOPMENT BLOCK GRANT
 ANNUAL PERFORMANCE REPORT
 FOR THE PERIOD: JULY 1, _____ TO JUNE 30, _____

Project Name: Clackamas Service Center Expansion Project
 Note: Need data from June 30, 2021 through July 1, 2022

Total Number Assisted (H or P)	Total of Columns C, D, and E	Income Categories			Female Headed Households
		Low/Mod (80% - 51%)	Very Low (50% - 30%)	Extremely Low (<30%)	
(A)	(B)	(C)	(D)	(E)	(F)

Females: _____
 Males: _____
 Persons with Disabilities: _____

Race Categories		Total #	# Hispanic
		(G)	(H)
(1)	White:		
(2)	Black/African American:		
(3)	Asian:		
(4)	American Indian/Alaskan Native:		
(5)	Native Hawaiian/Other Pacific Islander:		
(6)	American Indian/Alaskan Native & White:		
(7)	Asian & White:		
(8)	Black/African American & White:		
(9)	Am.Indian/Alaskan Native & Black/African Am:		
(10)	Other Multi-Racial:		

 Signature

 Date

 Organization

INSTRUCTIONS

Total Number Assisted (Column A):

Enter the actual number of persons (or households) who received assistance. Indicate whether this number represents "households" or "persons" with either (H) or (P) respectively. Each household or person may be counted only once. The number of beneficiaries reported in Column A must reflect the total of the beneficiaries reported in Column G.

Total Low/Mod (<80% MFI) (Column B):

The total number of lower income households or persons being served (total of Columns C, D, and E) should be entered in this column.

Income Categories

Low/Mod (Column C) - The total number of persons or households assisted who have an annual household income of 51% to 80% Median Family Income.

Low (Column D) - The total number of persons or households assisted who have an annual household income of 30% to 50% Median Family Income.

Extremely Low (Column E) - The total number of persons or households assisted who have an annual household income of 30% Median Family Income or less.

Female-Headed Household (Column F)

Enter the number of female-headed households. If "persons" assisted is reported in Column A rather than "households" assisted, leave this column blank.

Race (Rows 1 through 10)

All persons/households served (including persons of Hispanic ethnicity) must indicate Race.

Enter the number of households or persons using the facility or service (Column G) who are the following:

White (Row 1) - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East. This category will generally include persons of Hispanic ethnicity but other categories may be chosen as appropriate.

Black or African American (Row 2) - A person having origins in any of the black racial groups of Africa.

Asian (Row 3) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.

American Indian or Alaskan Native Origin (Row 4) - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliations or community recognition.

Native Hawaiian or Other Pacific Islander (Row 5) – A person having origins in the Hawaiian Islands or other Pacific Islands.

American Indian or Alaska Native and White (Row 6)

Asian and White (Row 7)

Black or African American and White (Row 8)

American Indian or Alaska Native and Black or African American (Row 9)

Other Multi-Racial (Row 10) – The balance category will be used to report individuals that are not included in any of the single race categories or in any of the multiple race categories listed above.

Ethnicity – Hispanic (Column H)

Enter the total number of persons or households within each Race Category who indicate origins in Mexico, Puerto Rico, Cuba, Central or South America or other Spanish culture or origin.

ATTACHMENT B

B.O. 2003 - 236

AFTER RECORDING RETURN TO:
Clackamas County Community Development Division
Public Services Building
2051 Kaen Road, Suite 245
Oregon City, Oregon 97045

STATUTORY NOTICE:
The name and address of the entity holding a lien or other interest created by this instrument are set forth below, and the tax account number of the property subject to the lien or in which the interest is created is: Clackamas County Community Development Division

Legal Description – within Recitals, Page 1

Declaration of Land Use Restrictive Covenants

Name of Project: Clackamas Service Center – PROPERTY RENOVATION

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS (“Declaration”), is made this ___ day of _____, 2022, by **Clackamas Service Center, Inc.** (CSC), a community based, membership controlled, not-for-profit corporation with charitable status under IRS Code 501c(3) (“Owner”), is given as a condition precedent to the award of Community Development Block Grant (CDBG) Program funds by the **Clackamas County**, on behalf of its Community Development Division, a political subdivision of the State of Oregon, together with any successor to its rights, duties, and obligations (the “County”).

RECITALS

WHEREAS, the Owner is the owner of the land located at 8800 SE 80th Ave. Portland, Oregon 97015 (“Property”). Owner and County are working together to perform the renovation and expansion of 2 buildings (land and 2 structures) located on the Property (the “Project”), using CDBG funds provided by the County under a separate agreement (the “Agreement”). Owner will own the Property while meeting HUD Income Limits as required by CDBG guidelines for income qualified families or individuals.

WHEREAS, the legal description of the Property, Parcel Reference Number and Parcel Number on which the Project is located is as follows:

Beginning at a Point on the east line of Center Street east of the northeast corner of Lot numbered five (5) Coates Home Tract thence south on east line of Center Street 125 feet, to a point thence east 145 feet to a point thence north 126 feet to a point; thence west 145 feet to the place of beginning. Being east and adjoining the plat of Coates Home Tracts, as recorded in Book 14 of Plats Page 1, Records of Clackamas County, Oregon being situated in the northeast quarter (NE¹/₄) of the northeast quarter (NE¹/₄) of section numbered twenty nine (29) in Township One (1) south of range two (2) east of the Willamette Meridian.

The above described property being that conveyed in a deed dated the 4th day of February 1925 from A.W. Stewart and Anna Stewart (Grantors) to W.L. McCarty, Anna Stewart and A.W. Stewart, as trustees for Kendall Community Presbyterian Church, of Kendall, state of Oregon, said deed recorded in the records of Clackamas County on March 2, 1925.

Parcel Reference Number: 12E29AA03000

Parcel Number: 00052356

County and State: Clackamas, Oregon

WHEREAS, the federal United States Department of Housing and Urban Development (HUD) has made CDBG funds available to the County as authorized under title I of the Housing and Community Development Act of 1974, as amended, is described in section 101(c) of the Act (42 U.S.C. 5301(c)); and

WHEREAS, CDBG dollars are made available to the County and subsequently to the Owner as authorized by 24 CFR Part 570 (the “Regulations”), Owner agrees to comply with all requirements of the Regulations. Should anything in this document be construed to conflict with the Regulations, the Regulations shall prevail.

WHEREAS, County seeks the maximum benefit from the use of such funds consistent with the CDBG Program and its objectives; and

WHEREAS, the Owner has applied to the County and entered into an Agreement for an award to the Project in an amount not to exceed **Six Hundred and Fifty Thousand Dollars & no/cents (\$650,000.00)**; and

WHEREAS, the Owner is a not-for-profit corporation organized under IRS Code 501C (3) in response to a critical need to support low and moderate income persons in the County, and;

WHEREAS, the Owner, under this Declaration intends, declares, and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy, and transfer of the Property shall be and are covenants running with the Property for the term stated herein and binding upon all subsequent Owners of the Property for such term, and are not merely personal covenants of the Owner;

WHEREAS, Owner shall immediately upon execution of the Agreement, execute deliver and record this Declaration in the official property deed records of Clackamas County to create certain covenants running with the land for the purpose of enforcing the requirements of 24 CFR Part 200 by regulating and restricting the use, occupancy and transfer of the Property as set forth herein; and

NOW, THEREFORE, in consideration for County issuing the CDBG funds to complete the Project, the promises contained herein and the financial assistance provided to Owner by County, Owner agrees as follows:

SECTION 1 - DEFINITION

All the words and phrases used in this Declaration shall have the same meaning as when used in 24 CFR Parts 570 and 200 unless the context requires otherwise.

SECTION 2 - RECORDING AND FILING; COVENANTS TO RUN WITH THE PROPERTY

- (A) Upon execution of this Declaration by the Owner and the County, the Owner shall cause this Declaration and all amendments hereto to be recorded and filed in the official public land deed records of Clackamas County, and shall pay all fees and charges incurred in connection therewith. Upon recording, the Owner shall immediately transmit to the County an executed original or certified copy of the recorded Declaration showing the date, deed book and page numbers of record.
- (B) The Owner intends, declares, and covenants, on behalf of itself and all future owners of the Property and operators of the Property during the term of this Declaration, that this Declaration, and the covenants and restrictions set forth in this Declaration regulating and restricting the use, occupancy and transfer of the Property (1) shall be and are covenants running with the land, encumbering the Property for the term of this Declaration, binding upon the Owner's successors in title and all subsequent Owners and Operators of the Property; (2) are not merely personal covenants of the Owner; and (3) shall bind the Owner (and the benefits shall inure to the County and any past, present or prospective

tenant of the Property) and its respective successors and assigns during the term of this Declaration. The Owner hereby agrees that any and all requirements of the laws of the State of Oregon to be satisfied in order for the provisions of this Declaration to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to ensure that these restrictions run with the Property. For the term of this Declaration, each and every contract, deed or other instrument hereafter executed conveying the Property or portion thereof shall expressly provide that such conveyance is subject to this Declaration, provided, however, the covenants contained herein shall survive and be effective regardless of whether such contract, deed, or other instrument hereafter executed conveying the Property or portion thereof provides that such conveyance is subject to this Declaration.

- (C) The Owner covenants to obtain the consent of any prior recorded lien holder on the Property to this Declaration.

SECTION 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner, at all times, agrees to comply with the CDBG Program regulations of 24 CFR Part 570. The Owner hereby represents, covenants, and warrants as follows:

- (A) Owner will retain ownership of the Property for the term of this Declaration.
- (B) Owner shall maintain records sufficient to meet the requirements of 24 CFR 570.506 through 508. All records and reports required herein shall be retained and made accessible as provide in 24 CFR 570.506. Owner agrees to comply with all federal laws and regulations, except that the Owner does not assume County's responsibility for environmental review.
- (C) The Property must meet the accessibility requirements in the regulations referenced 24 CFR 5.105 (a), which implements the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, as amended.
- (D) The Owner (1) is an Oregon non-profit corporation duly organized under the laws of the State of Oregon, and is qualified to transact business under the laws of the State of Oregon, (2) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (3) has the full legal right, power and authority to execute and deliver this Declaration.
- (E) The execution and performance of this Declaration by the Owner (1) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, (2) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Owner is a party or by which it or the Property is bound, and (3) will not result in the creation or imposition of any prohibited encumbrance of any nature.
- (F) The Owner will, at the time of execution and delivery of this Declaration, have good and marketable title to the Property free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Declaration, any loan documents relating to the Property or other permitted encumbrances).
- (G) There is no action, suit, or proceeding at law or in equity, or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner, threatened against or affecting it, or any of its properties or rights, which if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Declaration) or would materially adversely affect its financial condition.

(H) The Owner warrants that it has not and will not execute any other Declaration with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Declaration are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

SECTION 4 - INCOME RESTRICTIONS

The Owner represents, warrants, and covenants throughout the term of this Declaration and in order to satisfy the requirements of 24 CFR Part 570 that a majority of families or individuals served at this homeless services Property shall be of low to moderate income (80% on the Area Median Income (AMI) for an individual).

SECTION 5 - TERM OF DECLARATION

This Declaration applies to the Property immediately upon recordation, and the Owner shall comply with all restrictive covenants herein no later than the first day in the Project period on which any building, which is part of the Project, is placed in service. This Declaration shall terminate **twenty (20)** years from the date this Declaration is executed by both parties.

SECTION 6 - ENFORCEMENT OF RESTRICTIONS

- (A) The Owner shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the County, to inspect any books and records of the Owner regarding the Project.
- (B) The Owner shall submit any other information, documents, or certifications requested by the County, which the County shall deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of the restrictions specified in this Declaration.
- (C) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the County and all persons interested in Project compliance under 24 CFR Part 570 and all other applicable regulations.
- (D) This Declaration and the Agreement of which it is a part may be enforced by the County or its designee in the event the Owner fails to satisfy any of the requirements herein. In enforcing this Declaration and the Agreement, the County may, in addition to all other remedies provided by law or in equity, enforce specific performance by Owner of its obligations under this Declaration in a state court of competent jurisdiction.

IN WITNESS WHEREOF, the Owner has caused this Declaration to be signed by its duly authorized representatives, as of the day and year first written above.

_____ A 501(c)3 Non-Profit Organization
NAME OF ORGANIZATION

By : _____
NAME OF REPRESENTATIVE

STATE OF OREGON)

County of _____) ss.

On _____, 2021, before me personally appeared _____,
 who being duly sworn, stated that he/she is the _____ of
 _____ and acknowledged the foregoing instrument to
 be the voluntary act and deed of the Owner, signed by authority of Owner.

 Notary Public for Oregon
 My commission expires: _____

ATTACHMENT C CDBG Project Match Funds

For reporting to HUD at the end of the year, indicate the specific sources and amounts of matching funds for the Project:

FY 2021-2022 CDBG Funds:	\$ 650,000 maximum
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SOURCES OF LOCAL MATCH:
 Other Federal (including pass-through funds, e.g. County CDBG, State FEMA, etc.)

	\$	
	\$	
	\$	
	\$	

State/Local Governmental Funding (e.g. State Housing Trust Funds, Local Assessment, etc.)

	\$	
	\$	
	\$	
	\$	
	\$	

Private (including recipient) Funding

Fund Raising/Cash	\$	
Loans	\$	
Building Value or Lease	\$	
Donated Goods	\$	
New Staff Salaries	\$	

Volunteers (\$5/hr)	\$ _____
Volunteer Medical/Legal	\$ _____
Other	\$ _____

Prepared By:
(Print name)

Signature

Date

November 4, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement 171482-0 with The State of Oregon, Department of Human Services, Aging and People with Disabilities Division for the Provision of Services to Clackamas County Residents. Maximum Agreement Amount is \$5,452,881.
County General Funds of \$298,750 are used as match

Purpose/Outcomes	To provide Older American Act (OAA) and Oregon Project Independence (OPI) funded services for persons age 60 and over in Clackamas County
Dollar Amount and Fiscal Impact	The total agreement is for \$5,452,881 Funded by Federal OAA Funds and State General Funds designated for the OPI and SPA Programs.
Funding Source	Federal Older American Act & State General Fund - \$298,750 of County General Funds are used to meet match requirements for internal programs.
Duration	Effective July 1, 2021 and terminates on June 30, 2023
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.
Counsel Review	1. Date of Counsel review: 10/11/2021 2. Initials of County Counsel performing review: AN
Procurement Review	1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is an Intergovernmental Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S#10403

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Intergovernmental Grant Agreement #171482-0 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Services and Supports. This agreement provides grant funding for the Social Services Division to administer Older American Act (OAA) and Oregon Project Independence (OPI) funded services as well as Special Project Allocation (SPA) funds to support services for persons 60 and over living in Clackamas County. The services provided include nutrition programs, evidence-based health promotion activities, family caregiver supports, transportation, information and referral activities, and In-home services. These services link

residents with resources to meet their individual needs. This helps them to remain independent and active in their communities for as long as possible.

Social Services Division is the designated Area Agency on Aging for the Clackamas Planning and Service area designated by the State of Oregon, Department of Human Services, Aging and People with Disabilities Division, Community Services and Supports. This agreement reflects the current Older American Act (OAA), Special Project Allocation (SPA) and Oregon Project Independence (OPI) funding for July 1, 2021 through June 30, 2023; the biennial agreement period, and was delayed due to State and Federal budget processes. The agreement was reviewed and approved by County Council on October 11, 2021.

Program Match is only required for core OAA funding. The expenses charged to General Fund to meet the match obligation for internal programming include staff time and indirect and allocated costs.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that Tootie Smith, Board Chair; or her designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,



Rodney A. Cook, Director
Health Housing & Human Services



Grant Agreement Number 171482

**STATE OF OREGON
INTERGOVERNMENTAL GRANT AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS,” and

**Clackamas County
Acting by and through its
Clackamas County Social Services Division (CCSS)
District 2, Type A
Serving: Clackamas County
Attention: Brenda Durbin
PO Box 2950 - 2051 Kaen Road
Oregon City, Oregon 97045
Telephone: 503-655-8640
Facsimile: 503-655-8889**

**E-mail address: brendadur@clackamas.or.us; teresachr@clackamas.us;
ADS-ContractBilling@clackamas.us**

hereinafter referred to as “**Recipient**”, “**AAA**” (or “Agency” when applicable), or “**County**” interchangeably.

The Program to be supported under this Agreement relates principally to the ODHS’

**Oregon Department of Human Services
Aging and People with Disabilities (APD)
Community Services and Supports Unit
Agreement Administrator: Rodney Schroeder delegate
500 Summer Street NE
Salem, Oregon 97301
Telephone: 503-930-7293
Email address: rodnev.b.schroeder@dhs.oha.state.or.us**

WHEREAS, the Older Americans Act of 1965, ORS 410.080 et seq., and OAR 411-002-0100 et seq. authorize ODHS to provide funding to local governments for the operation of designated Area Agencies on Aging;

WHEREAS, Recipient is the “Type A” Area Agency on Aging (AAA) duly appointed to provide services mandated by the Older Americans Act and Oregon Project Independence programs within its designated Planning and Service Area, and

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

1. Effective Date and Duration. Once fully executed, this Agreement shall become effective on the date this Agreement has been approved by Department of Justice, regardless of the date it is signed by all parties. Recipient’s performance of the Program described in Exhibit A, Part 1, “Program Description” may start **July 1, 2021**, shall be governed by the terms and conditions herein, and such expenses incurred by Recipient may be reimbursed once this Agreement is effective, in accordance with the schedule of payments in Exhibit A, Part 2, “Disbursement and Financial Reporting”. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2023**. Agreement termination or expiration shall not extinguish or prejudice ODHS’ right to enforce this Agreement with respect to any default by Recipient that has not been cured.

2. Agreement Documents.

a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Program Description
- (2) Exhibit A, Part 2: Disbursement and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Federal Terms and Conditions
- (7) Exhibit E: Required by 2 CFR 200.332(a)(1)
- (8) Exhibit F: Privacy and Security Agreement
- (9) Exhibit F-1: Third Party Information System Access Request

There are no other Agreement documents unless specifically referenced and incorporated in this Agreement.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits D, B, A, C, E, F, and F-1.

3. Grant Disbursement Generally. The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is

\$5,452,881.00. ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A.

4. **Contractor or Subrecipient Determination.** In accordance with the State Controller’s Oregon Accounting Manual, policy 30.40.00.104, ODHS’ determination is that:

Recipient is a subrecipient Recipient is a contractor Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: **93.041, 93.043, 93.044, 93.045, 93.052, and 93.053.**

5. **Recipient Data and Certification.**

- a. **Recipient Information.** Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Recipient Name (exactly as filed with the IRS): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: (____) _____ Facsimile: (____) _____

Recipient Proof of Insurance. Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

Workers’ Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

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

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

- (2) The information shown in this Section 5a. “Recipient Information”, is Recipient’s true, accurate and correct information;
- (3) To the best of the undersigned’s knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) Recipient and Recipient’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (5) Recipient is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/SAM>;
- (6) Recipient is not subject to backup withholding because:
 - (a) Recipient is exempt from backup withholding;
 - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- (7) Recipient’s Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Recipient is required to provide ODHS with the new FEIN or SSN within 10 days.

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

- 6. Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

**Clackamas County
Acting by and through its
Clackamas County Social Services Division
By:**

Authorized Signature

Printed Name

Title

Date

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

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Approved via e-mail by Wendy J. Johnson, Senior Assistant Attorney General 9.21.2021
Department of Justice Date

**EXHIBIT A, Part 1
Program Description**

- 1. Services to be Provided.** Area Agency on Aging (AAA) agrees to provide services consistent with the purposes, conditions, and restrictions of:

 - a.** ORS 410.210 through 410.250 under which AAA receives funding as applicable to Type A AAAs and ORS 410.270 through 410.300 applicable to Type B agencies.
 - b.** Title III and Title VII of the Older Americans Act of 1965, Pub.L. 89-73, (79 Stat. 218), approved July 14, 1965, as amended (“Older Americans Act”) and 45 CFR Part 1321 (Older Americans Act and 45 CFR Part 1321 collectively “OAA”).
 - c.** Oregon Project Independence (“OPI”) program as set out in ORS Chapter 410 and OAR Chapter 411, Division 032.
 - d.** Legislatively Special Purpose Allocation funding as appropriated to support programs to serve individuals with long-term services and supports regardless of eligibility for entitlement programs.
- 2. Area Plan.** AAA shall submit for approval to ODHS, as instructed, a comprehensive and coordinated four-year service delivery plan (hereafter referred to as the “Area Plan”). The Area Plan will be developed in accordance with Section 306 of the Older Americans Act and OAR 411-032-0005. AAA shall annually submit upon direction of ODHS an electronically updated Area Plan. The ODHS approved Area Plan will be held on file with the ODHS Community Services and Supports Unit. Request for the Area Plan and subsequent updates will be announced through established ODHS Action Request procedure. No funds will be authorized for use by AAA without submission and approval of the Area Plan.
- 3. Program Reporting Requirements.** AAA shall collect and report National Aging Program Information System (“NAPIS”) data as directed by ODHS for all OAA and OPI services provided, using ODHS provided software or a ODHS approved alternative collection and reporting method. AAA shall at a minimum reconcile reported service data to reported expenditures by end of business day on October 31st of each year. Request for said data will be announced using ODHS Action Request procedure.
- 4. Program Monitoring.** ODHS will conduct periodic monitoring and evaluation of performance management system for program activities and administrative practices conducted in accordance with Section 307(a)(4) of the Older Americans Act and OAR 411-032-0015; Oregon Project Independence, OAR Chapter 411, Division 032; and Area Agency on Aging, ORS 410.210 through 410.300:

 - a.** AAA agrees to participate with ODHS to develop a performance management framework to include objectives and metrics based on adherence to program standards as demonstrated through self-monitoring.
 - b.** AAA agrees to report progress towards these objectives and metrics utilizing agreed upon format and intervals.
 - c.** ODHS agrees to notify AAA in writing of intent to conduct onsite evaluation of

reported performance management data and AAA agrees to provide ODHS access to its facility(ies) and staff, all related program and fiscal documentation, AAA's subrecipient reports and any other related documentation to substantiate performance management reporting data.

5. Management Control Functions.

- a. Criminal Records and Abuse Checks.** AAA agrees to utilize the ODHS Criminal Records Information Management System (CRIMS) to meet provider requirements set forth in OAR 407-007-0200 through 407-007-0370 and ORS 181A.195 through 181A.200 and ORS 443.004. Subject individuals are employees of the AAA; volunteers of AAA; employees and volunteers of AAA's subcontractors and direct care providers of consumers for which AAA provides service authorization. The process for a AAA employee's removal from service or dismissal shall adhere to AAA's dismissal policies and collective bargaining agreements, as applicable, to discharge an employee.
- b. Mandatory Reporting of Elder Abuse.** AAA shall ensure compliance with the mandatory reporting requirements of ORS 124.050 through 124.095 and OAR Chapter 411, Division 20 for employees and volunteers of the AAA as well as sub-contractor employees, volunteers and direct care providers for consumers for whom the AAA provides service authorization.
- c. Americans with Disabilities Act.** AAA will ensure public facilities used for the provision of OAA funded services meet the requirements as stated in Title II of the Americans with Disabilities Act of 1990, as amended ("ADA"), Section 504 of the Rehabilitation Act and ODHS Policy #010-005.
- d. Grievance Procedure.** AAA shall post the policy and procedure regarding how a consumer or family member may present a grievance concerning the operation of the Older Americans Act and Oregon Project Independence service programs.
- e. Competitive Procurement.** AAA in accordance with OAR 411-011-0005, agrees to competitively award funds by grant or contract to community service providers, agencies and organizations, except where, by means of AAA's Area Plan, ODHS has granted a waiver in accordance with 45 CFR Part 1321.63(b).

6. Information Systems.

- a.** ODHS shall provide AAA with access to ODHS-owned applications necessary for the proper operation of NAPIS collection databases and administration of the Older Americans Act and Oregon Project Independence programs. Maintenance or trouble shooting services for the ODHS applications will be provided remotely; no on-site services will be available. Ownership of said software shall at all times remain with ODHS.
- b.** AAA shall be responsible for obtaining such internet access and LAN/WAN connectivity as are necessary to access ODHS-owned applications. Notwithstanding the provisions set forth in Exhibit B (Standard Terms and Conditions), paragraph 12 (Information Privacy/Security/Access) of this Agreement, when AAA is connected to the ODHS network, ODHS internet and network use policies apply, and as such, Agency's use of ODHS-owned

applications is subject to monitoring by the ODHS-OIS-Information Security Office.

- c. ODHS may provide an allocation for the purchase of information technology necessary for NAPIS reporting. ODHS shall not be responsible for maintenance of said technology.
- d. Upon request ODHS will provide the required specifications for computer compatibility with ODHS applications.

7. Advisory Council. Area Agency on Aging advisory councils are key to provide support for each AAA. The responsibilities for the AAA's council shall include the following requirements in accordance with ORS 410.210:

- a. AAA advisory council's membership shall follow requirements described in this section which depend on the type of AAA providing Older Americans Act or Oregon Project Independence Services and related support. Each area agency shall have an area agency advisory council, with members appointed by the area agency board, and appointments will be determined by the AAA.

(1) For a Type A area agency, membership of the council shall include consumers of services provided primarily to elderly persons under Oregon Department of Human Services programs, including low income and minority persons.

(2) A Type B area agency that serves elderly persons and persons with disabilities shall have two advisory councils. One shall include persons described in ORS 410.210(1)(b). The second shall be a disability services advisory council. That council shall have as a majority of its members persons with disabilities and shall include consumers of services and other interested persons. Any disability services advisory council in existence at the time the area agency assumes responsibility for providing services to persons with disabilities shall become the disability services advisory council for the area agency.

- b. Area agency advisory councils shall:

(1) Recommend basic policy guidelines for the administration of the activities of the area agencies on behalf of elderly persons or persons with disabilities and advise the area agency on questions of policy.

(2) Advise the area agency with respect to development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the Director of Oregon Department of Human Services.

(3) Meet at least quarterly. The meetings are subject to the Oregon public meeting law, ORS 192.610 to 192.690.

8. Nutrition Services Incentive Program (NSIP). NSIP provides grant funding from the Administration for Community Living (ACL) that supplements funding for food provided under the OAA congregate and home delivered meals programs. This funding must be used for the meals program and is not able to be carried forward to the next biennium. AAAs shall comply with the requirements for NSIP as stated in Section 311 of the OAA.
9. Continued Sequestration Mitigation. State general fund dollars to be used however the AAA needs to support OAA programs to mitigate funding gaps caused in part by federal sequestration of federal programming funds. This funding is not eligible to be carried forward into the next biennium.

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EXHIBIT A, Part 2
Disbursement and Financial Reporting

- 1. Funding Appropriations.** The total sum payable for the period of July 1, 2021 through June 30, 2023, shall not exceed the amount described in Section 3 (“Grant Disbursement Generally”).
- a.** ODHS, in accordance with the Older Americans Act, agrees to disburse grant funds to AAA as outlined in Oregon’s Intrastate Funding Formula.
 - b.** Payment for all work performed under this Agreement shall be subject to the provisions of ORS 293.462 and disbursements under this Agreement shall both be based on the allocations as set forth in the table below and made on a reimbursement basis, upon ODHS approval of AAA’s disbursement request.

Older Americans Act	\$3,468,109	CFDA 93.041, 93.043, 93.044, 93.045, 93.052
NSIP	\$306,577	CFDA 93.053
IT Admin Funds	\$7,293	
Continued Sequestration Mitigation	\$214,495	
Oregon Project Independence (age 60+ or age under 60 with an Alzheimer’s Disease or related disorder diagnosis)	\$1,048,576	
Oregon Project Independence (age 19-59 with disability)	\$0	
Unspent ’19-’21 Biennia Funding:		CFDA 93.044, 93.045, 93.052
FFCRA (\$0)		
CARES (\$177,256)	\$407,831	
HDC5 (\$230,575)		
Other State Funds	\$0	
Allocation Total	\$5,452,881	

- c.** AAA will be allowed to carry-forward into the 2023-2025 biennium no more than ten (10) percent of the full 2021-2023 biennial allocation of Older American Act Title IIIB, IIIC1, IIIC2, IIID, IIIE and VIIB funds not fully expended during the Agreement period.
- d.** Funds carried forward from the prior biennium shall be expended prior to use of the current biennial allocation for the same Older Americans Act title.
- e.** AAA shall, in accordance with the Older Americans Act, promptly and equitably

disburse Nutrition Services Incentive Program (“NSIP”) funds to its subcontractors. NSIP funds shall only be used for purchase of domestically produced food for AAA’s nutrition service programs. NSIP funds must be fully expended during the Agreement period. NSIP funds are not eligible to carry-forward into next biennium.

- f. If permitted by the federal Families First Coronavirus Response Act (FFCRA), AAA may use FFCRA emergency funding to provide for eligible OAA nutrition program services. Funds must be fully expended by September 30, 2022 and AAA shall timely provide any necessary reporting information requested by ODHS.
- g. If permitted by the federal CARES Act, AAA may use CARES Act Funding to provide for allowable OAA program services (Title IIIB, IIIC, & IIIE). Funds must be fully expended by September 30, 2022 and AAA shall timely provide any necessary reporting information requested by ODHS.
- h. If permitted by the federal Supplemental Nutrition Funding (HDC5), AAA may use HDC5 funds to provide allowable Home Delivery Nutrition Program Services (Title IIIC2). Funds must be fully expended by September 30, 2022 and AAA shall timely provide any necessary reporting information requested by ODHS.

2. **Fiscal Control Functions.**

- a. Federal Requirements. AAA shall maintain a financial management system that assures that state and federal funds used for activities under this Agreement are expended and accounted for in accordance with applicable state requirements and federal requirements as outlined in 2 CFR, Subtitle A, Chapter II, Part 200.
- b. Program Income.
 - (1) AAA shall ensure as required in OAA Section 315(b)(3) that no means testing for service eligibility will be conducted and as per OAA Section 315(b)(4)(A-D), all recipients of OAA services will be provided opportunity to voluntarily contribute towards cost of service and AAA has appropriate safeguards in place to account for all contributions. Said contribution, hereby referred to as program income shall be used by the AAA or AAA sub-contractor(s) for the sole purpose of expanding services in the program area in which collected in accordance with Section 315(b)(4)(E) of the Older Americans Act.
 - (2) AAA shall ensure that no fee, or cost-sharing practices, unless authorized by ODHS and permitted under Section 315(a)(1) of the Older Americans Act, will be assessed or imposed for OAA services.
 - (3) AAA shall, in accordance with OAR 411-032-0044, expend all OPI annual fees, monthly fees for service, and all contributions to expand OPI services.
- c. Access to Fiscal Records. AAA shall provide access to all fiscal records and to all other books, documents, papers, and records of AAA which are pertinent to this Agreement, and shall, without prior notification, allow ODHS the making of

excerpts, photocopies, and transcripts, and allow performance of audits and examination of all pertinent fiscal records and books, documents, papers, and records of AAA. Such access shall be freely allowed to state and federal personnel, including the Oregon Secretary of State's Office, and their duly authorized agents.

- d. Fiscal Monitoring – For one quarter of each biennium the financial records that support the Monthly ODHS Form 148/150 (Form “148/150”) will be sent into APD. The schedule will be set before the biennium begins so contractor will have advance notice of fiscal monitoring timeline. During the quarter of fiscal monitoring the 148/150 will not be reimbursed until contractor has supplied all required documentation to APD.
- e. Fiscal Reporting, Reimbursement Requests, and Payments.
 - (1) AAA shall, when requesting working capital, submit Form SPD 150-WC to ODHS Accounting and Financial Services at a minimum 7 days prior to requisite receipt of funds. AAA shall estimate program expenses separate from estimated administrative expenses and detail such expenses by fund source (e.g., Title IIIB, IIIC1, IIIC2, IIID, IIIE, and VIIB of the Older Americans Act, CARES Act, FFCRA, OPI, NSIP, etc.).
 - (2) AAA shall submit electronically to APD Community Services and Supports Unit and ODHS Accounting and Financial Services at the electronic address below using Form 148/150 a monthly reimbursement request for all grant expenditures no later than the 35th day of the following month. ODHS agrees to process and make payments of all reimbursement requests within 30 days following receipt of an approved request.
 - (3) AAA agrees that ODHS may decrease AAA's OPI allocation for incurred home-care worker ("HCW") expenses, which includes the hourly rate of salary (subject to change based on the HCW collective bargaining agreement) and Federal and State Unemployment Tax Act (FUTA/SUTA), Workman's Compensation tax (WC/WCD) and Federal Insurance Contributions Act (FICA).
 - (4) AAA shall, no later than 90 days (September 30) from the conclusion of the state fiscal year end (June 30), electronically submit a FINAL fiscal year-end Form 148/150 to ODHS Aging & People with Disabilities, Community Services and Supports Unit's e-mail address of *sua.email@state.or.us* and,
 - (5) AAA shall, no later than 180 days (December 31) from the conclusion of the state fiscal year-end (June 30), electronically submit a FINAL AUDITED Form 148/150 signed by AAA Director to ODHS Aging & People with Disabilities, Community Services and Supports Unit's e-mail address of *sua.email@state.or.us* and,
 - (6) AAA shall submit one electronic copy of the AAA's fiscal year-end Financial Audit no later than 180 days (December 31) from the conclusion

of the state fiscal year-end (June 30) to ODHS Aging & People with Disabilities, Community Services and Supports Unit's e-mail address of sua.email@state.or.us and,

f. Special Funding Requests.

- (1) OAA Fund Transfers.** Beginning October 1st, but not later than June 30th of each fiscal year AAA may, as authorized by ODHS and when necessary to meet the needs of the area served, request to transfer Title IIIB, Title IIIC1 and Title IIIC2 funds as permitted in Section 308(b)(4)(A) and (5)(A) of the Older Americans Act.

 - (a) Request for transfer shall be electronically submitted using a form provided by ODHS and submitted to sua.email@state.or.us.
 - (b) Upon receipt of transfer authorization, AAA shall post transfer amounts on Form 150, page 1. Failure to do so will result in disqualification of transferred funds.
 - (c) Maximum transfers shall be as follows:

 - i. Not to exceed thirty percent (30%) for any fiscal year from Title IIIB into Title IIIC; or thirty percent (30%) from Title IIIC into Title IIIB; and
 - ii. Not to exceed forty percent (40%) for any fiscal year between Title IIIC1 and Title IIIC2; and
 - (d) When in the best interest of the OAA service recipients, AAA may elect to submit a written explanation of necessity and request ODHS to provide a waiver of the maximum percentage limits.
- (2) Fund Matrix #20-3 Program Coordination & Development.** Beginning July 1 of year one of the biennium, AAA may request to utilize OAA Title IIIB funds for program coordination and development activities.

 - (a) Request for transfer shall be electronically submitted using a form provided by ODHS and submitted to sua.email@state.or.us.
 - (b) In accordance with 45 CFR 1321.17(14)(ii) the AAA will submit details of program coordination and development to the general public for review and comment.
 - (c) Authorization from State is consistent with biannual budget cycle.
- (3) Oregon Project Independence Other Authorized Services.** At any time during the biennial funding period, AAA may request to utilize OPI funding for services other than those detailed in OAR 411-032-0010(1)(a).

 - (a) Request to utilize OPI funding for other services shall be electronically submitted using a form provided by ODHS and submitted to sua.email@state.or.us.
 - (b) Other authorized services may include services to support community caregivers, evidence-based health promotion services,

options counseling, and transportation services.

(c) Authorization shall terminate at the end of each fiscal year.

g. OAA Minimum Expenditure Requirements. AAA shall in accordance with OAA Section 307(a)(2) of the Older Americans Act and as established by ODHS:

- (1) Expend, at a minimum, 3% of Title IIIB funds for In-Home Services as defined in Section 102(a)(30)(A-G) of the Older Americans Act.
- (2) Expend, at a minimum, 3% of Title IIIB funds for legal assistance as described in Section 307(a)(11)(E) of the Older Americans Act,
- (3) Expend, at a minimum, 18% of Title IIIB funds for access services as described in Section 306(a)(2)(A) of the Older Americans Act and;
- (4) The required minimum Title IIIB fund expenditure shall be based on total funds after transfer if AAA employed the transfer options as outlined in Exhibit A, Part 2, 2f(1) titled OAA Fund Transfers.
- (5) Funding for Title IIID, Section 361 of the Older Americans Act for Disease Prevention and Health Promotion may only be used for programs and activities which have been demonstrated through rigorous evaluation to be evidence-based and effective.

h. OAA Maximum Expenditure Requirements. AAA shall, in accordance with Section 304(d)(1)(A) of the Older Americans Act, not exceed a maximum 10% of Title III expenditures for administration and such amount can only be taken from funds allocated for Title IIIB, IIIC1, IIIC2 and IIIE services.

- (1) AAA shall, in accordance with 45 CFR Part 1321.17(f)(14)(i) and as authorized by ODHS, only fund program development and coordination activity after first expending the full 10% in administrative expenses and when such expenditure will have a direct and positive impact on the enhancement of services and only after the general public has been provided with notification to review and comment. A request for program development and coordination funding shall be electronically submitted using a form provided by ODHS and shall be received by the Community Services and Supports Unit no later than end of business on September 30th of a fiscal year.
- (2) AAA shall in accordance with Section 373(g)(2)(C) of the Older Americans Act expend no more than 10% of the total Federal and non-Federal share of the Title IIIE funds to support services to grandparents and older relatives who are relative caregivers of a child no more than 18 years of age.

i. OAA Match Requirements. AAA shall, as required in Sections 309(b)(1) and 373(g)(2) of the Older Americans Act, match expenditures with cash or in-kind resources of non-federal means such as local or state sources as follows:

- (1) Federal funds may not pay for more than 75% of the total administrative expenditures for Title IIIB, IIIC1, IIIC2 and IIIE services. The required

match is calculated using the following formula: (Total Administrative Expenditures to be charged to Federal funds/.75)-(Total Administrative Expenditures to be charged to Federal funds). Example: $100/.75=133$; $133-100=33$; the required match is 33.

- (2) Federal funds may not pay for more than 85% of the total expenditures for Title IIIB, IIIC1 and IIIC2 services. AAA is required to meet 2/3 of the required match which is calculated using the following formula: (Total Service Expenditures to be charged to Federal funds/.85) - (Total Service Expenditures to be charged for Title IIIB, IIIC1, and IIIC2 services) X .67. Example: $100/.85=118$; $118-100=18$; $18 \times .67=12$; the required match is 12.
- (3) Federal funds may not pay for more than 75% of expenditures for Title IIIE services. The required match is calculated using the following formula: (Total Service Expenditures for Title IIIE services/.75) – (Total Service Expenditures for Title IIIE services). Example: $100/.75=133$; $133-100=33$; the required match is 33.

EXHIBIT A

Part 3 Special Provisions

1. **HIPAA Compliance.** As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. Recipient is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504.

Recipient shall be liable to ODHS for any and all costs incurred by ODHS, including, but not limited to, costs of issuing any notices required by HIPAA, HITECH or any other applicable law and damages to third parties as a result of Recipient's Breach of Unsecured Protected Health Information.
 - a. **Consultation and Testing.** If Recipient reasonably believes that the Recipient's or ODHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Recipient shall promptly consult the ODHS Information Security Office. Recipient or ODHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the ODHS testing schedule.
 - b. **Data Transactions Systems.** If Recipient intends to exchange electronic data transactions with ODHS or the Oregon Health Authority (OHA) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Recipient shall execute an Electronic Data Interchange (EDI) Trading Partner Agreement and shall comply with EDI Rules set forth in OAR 943-120-0110 through 943-120-0160.

2. **Confidentiality of Information.**
 - a. Consumer Information:
 - (1) All information as to personal facts and circumstances obtained by the Recipient on the consumer ("Consumer Information") shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the consumer, his or her guardian, or the responsible parent when the consumer is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
 - (2) The use or disclosure of Consumer Information shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.

- (3) ODHS, Recipient and any subcontractor will share information as necessary to effectively serve ODHS consumers.

b. Non-Consumer Information:

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under the Agreement, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Agreement that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Consumer Information”).
- (2) Confidential Non-Consumer Information shall be deemed not to include information that:
 - (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
 - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under the Agreement;
 - (c) Is rightfully in the receiving Party’s possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under the Agreement;
 - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
 - (e) Is disclosed with the written consent of the originating Party; or
 - (f) Is independently developed by the receiving Party’s officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Consumer Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Consumer Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Consumer Information to third parties; shall not use Confidential Non-Consumer Information for any purposes whatsoever other than as contemplated by this Agreement or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Consumer Information of their obligations to keep Confidential Non-Consumer Information confidential. These confidentiality obligations do not restrict disclosure of information

otherwise qualifying as Confidential Non-Consumer Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.410 to 192.505. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.

- c. Upon request and pursuant to the instructions of ODHS, Recipient shall return or destroy all copies of Confidential Information, and Recipient shall certify in writing the return or destruction of all Confidential Information.
- d. For the purposes of this Exhibit A, Part 3, "Consumer" (or Client, interchangeably) means any individual, family or Provider.
 - (1) For whom an Agency must provide Services and incidental or specialized Goods, in any combination thereof ("Services and Incidental Supplies"), according to state, federal law, rule, and policy. Those Services and Incidental Supplies include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;
 - (2) Who in fact receives and utilizes services provided by an Agency primarily for that individual's or family's benefit;
 - (3) Who is under the custody, care, or both of the Agency; or
 - (4) Who provides direct care or Services and is a proxy or representative of the non-Provider Consumer.

- 3. **Privacy and Security.** Recipient shall ensure all staff, volunteers, and subcontractors who provides services under this agreement complete an annual information privacy and security training to ensure understanding and adherence to acceptable privacy and security practices. This training can be self-provided or taken through ODHS at the Recipient's discretion. Tracking the completion/compliance of this training requirement will be the responsibility of the Recipient, who will have the records available for viewing as needed by the ODHS.
- 4. **Service Equity.** As part of a shared goal and intent to address and mitigate systematic racism through the incorporation of service equity in all aspects of the administration of Oregon's aging network, AAAs agree to partner with the ODHS to develop strategies, goals, and objectives to operationalize the ODHS' commitment to embracing service equity in all the work shared. AAAs will actively participate and contribute to this initiative and process.
- 5. **Major Disaster Declaration Number DR4499OR Agreement Provisions.** With this Agreement, ODHS is acquiring certain services for the purpose of responding to the state of emergency declared by the Governor on Saturday, March 7, 2020 and pursuant to the Major Disaster Declaration number DR4499OR as a direct result of COVID-19. ODHS

has received funding from the federal government to respond to the state of emergency, including, but not limited to, FEMA and resources provided by the Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security (CARES) Act, for the costs. Recipient shall provide to ODHS timely reports that provide enough detail to ODHS' reasonable satisfaction in order to comply with federal requirements for the funding.

6. **NAPIS Program Reporting.** Data entry of NAPIS data and service units is a critical function of AAAs and must be completed timely. The timeliness of this data is essential for management reports and to respond to legislative questions and inquiries. AAAs must follow ODHS required timelines for this data entry or be subject to administrative withholding of a portion of funding until required data has been appropriately entered. Any necessary withholding of funds will be progressive in accordance with the frequency in which the AAA is late on data submission, starting with a 5% withhold for the first delay and increasing 5% with each repeated instance, up to a maximum of 25% withheld. It is the ODHS' intent and direction that this data be input on a monthly basis, in systems identified by the ODHS, and with all data for a given month being entered by the final day of the subsequent month.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and ODHS, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers’ Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement shall require County or ODHS to act in violation of state or federal law or the Constitution of the State of Oregon.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
 - a. County represents and warrants as follows:
 - (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

- (2) Due Authorization. The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.
 - (3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
 - (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;
 - (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
 - (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b.** ODHS represents and warrants as follows:
- (1) Organization and Authority. ODHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
 - (2) Due Authorization. The making and performance by ODHS of this Agreement (a) have been duly authorized by all necessary action by ODHS and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which ODHS is a party or by which ODHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by ODHS of this Agreement, other than approval by the Department of Justice if required by law.

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

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

5. Funds Available and Authorized Clause.

a. The State of Oregon's payment obligations under this Agreement are conditioned upon ODHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. ODHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.

b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, County shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from County.

6. Recovery of Overpayments. If any funds disbursed under this Agreement, or under any other Agreement between County and ODHS, result in payments to County to which County is not entitled, ODHS, after giving to County written notification and an opportunity to object, may withhold from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if County objects to the withholding or the amount proposed to be withheld, County shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 18 of this Agreement.

7. Ownership of Intellectual Property.

- a. Definitions.** As used in this Section 7 and elsewhere in this Agreement, the following terms have the meanings set forth below:

 - (1) “County Intellectual Property” means any intellectual property owned by County and developed independently from the Work.
 - (2) “Third Party Intellectual Property” means any intellectual property owned by parties other than ODHS or County.
- b.** Except as otherwise expressly provided herein, or as otherwise required by state or federal law, ODHS will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that County owns, County grants to ODHS a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 7.b.(1) on ODHS’ behalf, and (3) sublicense to third parties the rights set forth in Section 7.b.(1).
- c.** If state or federal law requires that ODHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that ODHS or the United States own the intellectual property, then County shall execute such further documents and instruments as ODHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODHS. To the extent that ODHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, ODHS will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.
- d.** County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

8. County Default. County shall be in default under this Agreement upon the occurrence of any of the following events:

- a.** County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- b.** Any representation, warranty or statement made by County herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;

- c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
- d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

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

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

10. **Termination.**

- a. **County Termination.** County may terminate this Agreement:
 - (1) For its convenience, upon at least 30 days advance written notice to ODHS;
 - (2) Upon 45 days advance written notice to ODHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
 - (3) Upon 30 days advance written notice to ODHS, if ODHS is in default under this Agreement and such default remains uncured at the end of said

30-day period or such longer period, if any, as County may specify in the notice; or

- (4) Immediately upon written notice to ODHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

b. ODHS Termination. ODHS may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to County;
- (2) Upon 45 days advance written notice to County, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that ODHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as ODHS may specify in the notice;
- (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or
- (6) Immediately upon written notice to County, if ODHS determines that County or any of its subcontractors have endangered or are endangering

the health or safety of a client or others in performing work covered by this Agreement.

- c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

11. Effect of Termination.

a. Entire Agreement.

- (1) Upon termination of this Agreement, ODHS shall have no further obligation to pay County under this Agreement.
- (2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

- b. **Obligations and Liabilities.** Notwithstanding Section 11.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

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

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

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

15. Information Privacy/Security/Access. If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any ODHS computer system or other ODHS Information Asset for which ODHS imposes security

requirements, and ODHS grants County or its subcontractor(s) access to such ODHS Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, “Information Asset” and “Network and Information System” have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.

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

 - a.** County shall not assign or transfer its interest in this Agreement without prior written approval of ODHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as ODHS may deem necessary. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in the Agreement.
 - b.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
- 18. Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 19. Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without ODHS’ prior written consent. In addition to any other provisions ODHS may require, County shall include in any permitted subcontract under this Agreement provisions to require that ODHS will receive the benefit of subcontractor performance as if the subcontractor were County with respect to Sections 1, 2, 3, 4, 7, 15, 16, 18, 19, 20, and 22 of this Exhibit B. ODHS’ consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
- 20. No Third Party Beneficiaries.** ODHS and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County’s performance under this Agreement is solely for the benefit of ODHS to assist and enable ODHS to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

21. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, approved by the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
22. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions 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.
23. **Survival.** Sections 1, 4, 5, 6, 7, 10, 12, 13, 14, 15, 18, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
24. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

ODHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324
25. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
26. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
27. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the

Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

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

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

- 28. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

- 29. Stop-Work Order.** ODHS may, at any time, by written notice to County, require County to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:
- a.** Cancel or modify the stop work order by a supplementary written notice; or
 - b.** Terminate the work as permitted by either the Default or the Convenience provisions of Section 10. Termination.

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

**EXHIBIT C
SUBCONTRACTOR INSURANCE**

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

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:

Required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Agreement, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$4,000,000.00 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.00.

AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Automobile Liability Insurance covering Recipient's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$4,000,000.00 for bodily

injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:

Required Not required

Professional Liability covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Agreement by the Recipient and Recipient’s subcontractors, agents, officers or employees in an amount not less than \$_____per claim. Annual aggregate limit shall not be less than \$_____. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Recipient shall provide continuous claims made coverage as stated below.

NETWORK SECURITY AND PRIVACY LIABILITY:

Required Not required

Recipient shall provide network security and privacy liability insurance for the duration of the Agreement and for the period of time in which Recipient (or its Business Associates or subcontractor(s)) maintains, possesses, stores or has access to ODHS or client data, whichever is longer, with a combined single limit of no less than \$_____per claim or incident. This insurance shall include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of ODHS or client data (which may include, but is not limited to, Personally Identifiable Information (“PII”), Payment Card Data and Protected Health Information (“PHI”)) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of ODHS data.

POLLUTION LIABILITY:

Required Not required

Pollution Liability Insurance covering Recipient’s or appropriate subcontractor’s liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Recipient, all arising out of the Goods delivered or Services (including transportation risk) performed under this Agreement is required. Combined single limit per occurrence shall not be less than \$_____. Annual aggregate limit shall not be less than \$_____.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Recipient’s or subcontractor’ liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by the Recipient that arise from the Goods delivered or Services (including transportation risk) performed by Recipient under this Agreement is also acceptable.

EXCESS/UMBRELLA INSURANCE: A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED: All liability insurance, except for Workers’ Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Agreement must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with

respect to liability arising out of ongoing operations and completed operations, but only with respect to Recipient's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION: Recipient must require its first-tier contractors and subrecipients waive rights of subrogation which Recipient's first tier contractors and subrecipients, if any, or any insurer of Recipient may acquire against the ODHS or State of Oregon by virtue of the payment of any loss. Recipient will require its first-tier contractors and subrecipients to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the ODHS has received a waiver of subrogation endorsement.

CONTINUOUS CLAIMS MADE COVERAGE: If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Recipient shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Grant Agreement, for a minimum of 24 months following the later of:

- (i) Recipient's completion and ODHS' acceptance of all Services required under the Agreement, or
- (ii) Agency or Recipient termination of this Agreement, or
- (iii) The expiration of all warranty periods provided under this Agreement.

CERTIFICATE(S) AND PROOF OF INSURANCE: Recipient shall provide to ODHS Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Agreement. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Agreement. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance ODHS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Agreement.

NOTICE OF CHANGE OR CANCELLATION: The Recipient or its insurer must provide at least 30 days' written notice to ODHS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW: Recipient agrees to periodic review of insurance requirements by ODHS under this Agreement and to provide updated requirements as mutually agreed upon by Recipient and ODHS.

STATE ACCEPTANCE: All insurance providers are subject to ODHS acceptance. If requested by ODHS, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to ODHS' representatives responsible for verification of the insurance coverages required under this Section.

EXHIBIT D

Federal Terms and Conditions

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

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

contracts with subcontractors receiving more than \$100,000.00, language requiring the subcontractor to comply with the federal laws identified in this Section.

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

- f.** No part of any federal funds paid to Recipient under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g.** The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h.** No part of any federal funds paid to Recipient under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- 6. Resource Conservation and Recovery.** Recipient shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
- 7. Audits.**
- a.** Recipient shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
 - b.** If Recipient expends \$750,000.00 or more in federal funds (from all sources) in a federal fiscal year, Recipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If Recipient expends less than \$750,000.00 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, “Records Maintenance; Access”.
- 8. Debarment and Suspension.** Recipient shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or

Nonprocurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. **Pro-Children Act.** Recipient shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).
10. **Medicaid Services.** Recipient shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Recipient shall acknowledge Recipient’s understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. 1396a(a)(68).
11. **Agency-based Voter Registration.** If applicable, Recipient shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
12. **Disclosures.**
 - a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address

(including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b.** Recipient shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom the Recipient has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between the Recipient, and any wholly owned supplier or between the Recipient and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
 - c.** 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
 - d.** As such, Recipient must disclose any person with a 5% or greater direct or indirect ownership interest in the Recipient whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.
 - e.** Recipient shall make the disclosures required by this Section 12. to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.
- 13. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed under this Agreement, may have certain rights as set forth in the federal requirements pertinent to

these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The Recipient agrees that it has been provided the following notice:

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

- 14. Federal Whistleblower Protection.** Recipient shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

EXHIBIT E

Information Required by 2 CFR § 200.332(a)(1)*

All required data elements in accordance with 2 CFR 200.332(a)(1) are available at <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/Pages/AAA-Financial.aspx>

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EXHIBIT F
Privacy and Security Agreement

1. **PURPOSE.** Recipient requires the Access described in Exhibit F-1, *Third Party Information System Access Request* (Form MSC 0785), which is hereby incorporated into this Exhibit F by reference, to conduct Grant Activities. The terms and conditions of this Privacy and Security Agreement govern:
 - 1.1. Recipient's Use of Data;
 - 1.2. Recipient's Access to ODHS' Information Assets and Systems;
 - 1.3. The periodic exchange of Data between ODHS' and Recipient's systems via electronic means; and
 - 1.4. The interconnection between ODHS' and Recipient's respective networks and information systems.
2. **TERM.** This Privacy and Security Agreement is effective for a period coterminous with the Agreement, subject to review at least annually by ODHS, unless terminated earlier by either party in accordance with the "Suspension or Termination" section of this Privacy and Security Agreement.
3. **DEFINITIONS.** The following definitions apply to this Privacy and Security Agreement:
 - 3.1. "Access" means the ability or the means necessary to read, communicate, or otherwise use ODHS or State Data, Network and Information Systems, and Information Assets
 - 3.2. "Breach" means the acquisition, access, exposure, use, or disclosure of Data or an Information Asset in a manner not in compliance with applicable law, rule, or policy, or Data loss, misuse, or compromise.
 - 3.3. "Client Records" includes any client, applicant, or participant information regardless of the media or source, collected by Recipient in the course of completing the Grant Activities, provided through the Network and Information Systems to Recipient, or otherwise exchanged between the parties.
 - 3.4. "Data" means information created, transmitted, or stored through the Network and Information Systems, including metadata, personal information, and Client Records.
 - 3.5. "Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of any Network and Information System or Information Asset. An Incident is an observable, measurable occurrence that is a deviation from expected operations or activities. An Incident may be a Breach, failure to protect a User's identification (ID), or theft of computer equipment that uses or stores any Information Asset.
 - 3.6. "Individual Access Request (IAR)" refers to the ODHS form used to authorize a User, identify the User's job assignment, and the required access to Network and

Information System(s). It generates a unique alpha/numeric code used to access the ODHS Network and Information Systems.

- 3.7. "Information Asset(s)" refers to all information provided through ODHS, regardless of the source, which requires measures for security and privacy. Includes Data.
- 3.8. "Network and Information System(s)" means ODHS' and the State of Oregon's computer infrastructure which provides personal communications; Data such as Client Records; Access to other Information Assets, regional, wide area, and local networks; and the internetworking of various types of networks.
- 3.9. "User" means any individual authorized to access Network and Information Systems and who has an been assigned a unique log-on identifier.

4. CHANGES TO PRIVACY AND SECURITY AGREEMENT. Other than as allowed under this section, Recipient shall be requested to submit input to a revised *Third Party Information System Access Request* (Form MSC 0785), to request changes to Exhibit F. ODHS will review Recipient's request and, if approved in writing by ODHS, the parties will amend the Agreement in accordance with Exhibit B, Section 21.

- 4.1. **Point of Contact Changes.** Each party will provide notification to the other of any change of its respective point(s) of contact noted in Exhibit F-1, including any technical lead, and name an interim or replacement person in any such notice. Exhibit F-1 will be deemed amended to include the updated information.
- 4.2. **Administrative Changes.** Recipient may request updates to Exhibit F that are administrative in nature and do not modify the mode of Access or type of data by submitting a written request to ODHS. Upon written acceptance by ODHS, Exhibit F will be deemed amended to include the updated information.

5. NOTIFICATIONS.

- 5.1. **Points of Contact.** The parties have designated their respective technical leads in Exhibit F-1. The parties will facilitate direct contacts between technical leads. The parties will provide notification to the other of any changes in technical point of contact information.
- 5.2. **Breach Notification.** In the event Recipient or its subcontractors or agents discover or are notified of an Incident or a Breach, including a failure to comply with Recipient's confidentiality obligations under this Agreement, Recipient shall immediately notify ODHS' Program Sponsor identified in Section 4 of Exhibit F (or delegate) of the Incident or Breach. If ODHS determines that an Incident or Breach requires notification of ODHS clients, or other notification required by law, ODHS will have sole control over the notification content, timing, and method, subject to Recipient's obligations under applicable law.
- 5.3. **Requests for Data.** In the event Recipient receives a third-party request for Data, including any electronic discovery, litigation hold, or discovery searches, Recipient shall first give ODHS notice and provide such information as may be reasonably necessary to enable ODHS to protect its interests.

- 5.4. **Changes in Law.** Each party will provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations.
6. **GRANT OF LICENSE.** Subject to Recipient’s compliance with the Agreement, Recipient is hereby granted a non-exclusive, non-transferable, and revocable authorization to Access and use Information Assets only in accordance with this Agreement and applicable laws, rules, and policies. Recipient and its employees, contractors, and agents shall not manipulate any URL or modify, publish, transmit, reverse engineer, participate in any unauthorized transfer or sale of, create derivative works of, or in any way exploit the content or software comprising this Access, or Information Assets made available through this Access.
7. **DATA PRIVACY.** In addition to Contractor’s obligations under Exhibit A, Part 3, “Special Provisions”, Section 2 regarding Confidentiality of Information:
- 7.1. **Generally.** Recipient shall hold all Client Records, and other information as to personal facts and circumstances obtained by Recipient on ODHS clients, as confidential, using the highest standard of care applicable to the Client Records, and shall not divulge any Client Records without the written consent of the client, the client’s attorney, the responsible parent of a minor child, or the minor child’s guardian except as required by other terms of this Privacy and Security Agreement or applicable law.
- 7.2. **Limited Purposes.** Recipient shall limit the use or disclosure of Data concerning clients to persons directly connected with the administration of this Privacy and Security Agreement or the Agreement. Confidentiality policies apply to all requests from outside sources.
- 7.3. **Privacy Protections.** Data may include information, such as Client Records, subject to specified confidentiality protections under state or federal law. Recipient shall comply with laws, regulations, and policies applicable to the information described in Exhibit F-1, including as specified in this Agreement.
- 7.4. **Training.** Recipient’s employees, subcontractors, and agents who will Access Data have received training on the privacy and security obligations relating to the Data, including Client Records. Recipient shall provide periodic privacy and security training to its employees, subcontractors, and agents.
8. **SECURITY REQUIREMENTS.**
- 8.1. **Compliance with Laws, Regulations, and Policies.** Recipient and its employees, contractors, and agents shall comply with all applicable state and federal laws and regulations, and State of Oregon policies governing use and disclosure of Data (including Client Records) and Access to Information Assets, including as those laws, regulations, and policies may be updated from time to time. Applicable laws, regulations, and policies include but are not limited to:

- 8.1.1. ODHS and OHA Information Security and Privacy Policies:
<https://www.oregon.gov/oha/FOD/OIS-ISPO/Pages/Policies.aspx>
- 8.1.2. ODHS and OHA Privacy and Confidentiality administrative rules, OAR Chapter 407, Division 14, and OAR Chapter 943, Division 14.

The Health Insurance Portability and Accountability Act (HIPAA), including as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”), and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164. Recipient shall comply with HIPAA Compliance included in this Agreement in Exhibit A, Part 3, Section 1 in connection with Recipient’s Access.
- 8.1.3. The Oregon Consumer Identity Theft Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.
- 8.1.4. Oregon’s Statewide Information Security Standards:
<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>

- 8.2. **Responsible for Compliance.** Recipient is responsible for the compliance of its employees, agents, and subcontractors with this Agreement and with any third-party licenses to which Access is subject.
- 8.3. **Privacy and Security Measures.** Recipient represents and warrants it has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security and privacy of Data, including Client Records, all Information Assets, regardless of the media, and all Network and Information Systems. Recipient shall monitor, periodically assess, and update its security controls and risk to ensure continued effectiveness of those controls.
- 8.4. **Security Risk Management Plan.** Recipient shall ensure the level of security and privacy protection required in accordance with this Privacy and Security Agreement is documented in a security risk management plan. Recipient shall make its security risk management plan available to ODHS for review upon request.
- 8.5. **Audit Rights and Access.** Recipient shall maintain records in such a manner as to clearly document its compliance with and performance under this Privacy and Security Agreement, and provide ODHS, the Oregon Secretary of State, the federal government, and their duly authorized representatives access to Recipient’s officers, agents, contractors, subcontractors, employees, facilities and records for ODHS to:
 - 8.5.1. Determine Recipient’s compliance with this Privacy and Security Agreement,
 - 8.5.2. Validate Recipient’s written security risk management plan, or
 - 8.5.3. Gather or verify any additional information ODHS may require to meet any state or federal laws, rules, or orders regarding Information Assets.

8.5.4. Access to facilities, systems, and records under this section will be granted following reasonable notice to Recipient. Records include paper or electronic form, system security logs, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

9. ACCESS TO ODHS SYSTEMS.

- 9.1. **ODHS Review of User Requests.** If required for Access, ODHS will review requests, including forms such as the IAR, and will:
- 9.1.1. Notify Recipient of the approval or denial of its request for each User for whom Access has been requested;
 - 9.1.2. Provide any unique log-on identifier required for authorized Access;
 - 9.1.3. Provide updates to approved inquiry processes and instructions to Recipient.
- 9.2. **Recipient's Responsibilities for User Accounts.** Recipient shall facilitate completion of any forms (such as the IAR) for each person for whom Access is requested.
- 9.2.1. Recipient is responsible for all activities that occur through its Access, including for any acts related to a lost or stolen User ID or password.
 - 9.2.2. Recipient is responsible for ensuring information provided by its Users is accurate, complete, and up to date.
 - 9.2.3. Recipient shall immediately notify ODHS when a User, group of Users, or Recipient, no longer requires Access whether due to changes in duties or due to changes in Recipient's programs related to this Agreement.
- 9.3. **Security and Disposal.** Recipient shall maintain security of equipment, and ensure the proper handling, storage and disposal of all Information Assets accessed, obtained, or reproduced by Recipient and its Users to prevent inadvertent destruction or loss. Recipient shall ensure proper disposal of equipment and Information Assets when authorized use ends, consistent with Recipient's record retention obligations and obligations regarding Information Assets under this Agreement.
- 9.4. **Prevention of Unauthorized Access.** Recipient shall prevent any Access to State of Oregon Network and Information Systems by its Users that is not authorized in accordance with this Agreement and applicable law, and shall implement and maintain safeguards to prevent unauthorized access.
- 9.5. **Access from Outside the US and its Territories.** Recipient Access to the state network from outside the US and its territories is prohibited unless approved by the ODHS|OHA Chief Information Risk Officer (CIRO). If approved, the Recipient shall provide ODHS|OHA with the IP addresses, or IP address range, to be used to Access the network. Any changes to the provided IP addresses, or IP range, shall be immediately communicated to ODHS|OHA or Access could be affected.

- 9.5.1. Recipient shall not allow use of any Information Asset in any country or territory in any manner prohibited by governing applicable law, rule, or policy.
- 9.6. **Authorized Access and Use Only.** No User may Access or use Data for any purpose other than those specifically authorized through this Agreement.
- 9.6.1. Users shall not use Access to obtain or attempt to obtain any Data or Information Assets not authorized or intentionally made available.
- 9.6.2. The use and disclosure of any Information Asset is strictly limited to the minimum information necessary to the exchange of Data between the parties described in Exhibit F-1.
- 9.6.3. Except as otherwise specified or approved by ODHS, neither Recipient nor its Users may modify, alter, delete, or destroy any Information Asset.
- 9.7. **Revocation or Termination of Access.** Breach, or wrongful use or disclosure of Information Assets by Recipient or its Users, may cause the immediate revocation of the Access granted through this Agreement, in the sole discretion of ODHS, or ODHS may specify a reasonable opportunity for Recipient to cure the unauthorized use or disclosure and end the violation, and terminate the Access if Recipient does not do so within the time specified by ODHS. Legal actions also may be taken for violations of applicable regulations and laws.
- 9.8. **No Unauthorized Distribution.** Recipient shall not sell, make available, or provide Information Assets in any form to any other persons or organizations, and shall not use the Information Assets for any purposes other than as allowed under this Agreement and applicable law.
- 9.9. **No Impairment.** Recipient shall not use this Access in any manner which could damage, disable, overburden, or impair Network and Information Systems or interfere with any other entity's use or benefit of Network and Information Systems.
- 9.10. **Prohibition on Data Mining.** Recipient shall not capture, maintain, scan, index, share or use Data stored or transmitted by virtue of this interconnection, or otherwise use any data-mining technology, for any non-authorized activity. For purposes of this requirement, "non-authorized activity" means the data mining or processing of data, stored or transmitted through the Network and Information Systems, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security analysis that is not explicitly authorized in this Agreement.
- 9.11. **Incidents and Breaches.** Recipient shall comply, and shall cause its subcontractors to comply, with any requirements for identifying and addressing an Incident or Breach. This requirement applies regardless of whether the Incident or Breach was accidental or otherwise.

10. SUSPENSION OR TERMINATION.

- 10.1. This Privacy and Security Agreement may be terminated at any time by written agreement of the parties.
- 10.2. This Privacy and Security Agreement may be terminated by either party upon thirty (30) calendar days' written notice to the other party.
- 10.3. Access and this Privacy and Security Agreement may be terminated immediately upon written notice from Recipient if Access is no longer needed by Recipient.
- 10.4. ODHS may immediately revoke the Access granted Recipient for Recipient's failure to comply with the requirements of this Privacy and Security Agreement. In such event, ODHS will provide subsequent written notice to Recipient's point of contact. ODHS may, to the extent it determines it is reasonable and able to do so, provide advance notice to Recipient to cure any deficiency or breach of this Privacy and Security Agreement.
- 10.5. Either party may terminate this Privacy and Security Agreement, and ODHS may modify Access, upon written notice if there are changes to or revised interpretations of federal or state laws, rules, or regulations, or if either party has changes in policies that require such action.

11. RETURN OF INFORMATION ASSETS. Upon expiration or termination of the Agreement or this Privacy and Security Agreement for any reason whatsoever, Recipient shall immediately deliver to ODHS all of ODHS' Information Assets, including Data and Client Records, that are in the possession or under the control of Recipient in whatever stage and form of recordation such property is expressed or embodied at that time.

- 11.1. Except as necessary to meet obligations under Exhibit B, Section 14, Records Maintenance; Access, Recipient shall not retain any copies of Information Assets. Recipient shall notify ODHS of any conditions that make returning all ODHS Information Assets not feasible. Upon ODHS' written acknowledgement that returning all Information Assets is not feasible, Recipient shall purge or destroy retained Data in all its forms in accordance with the most current version of NIST SP 800-88 (or other agreed-upon standard) and on request provide ODHS with written certification of sanitization.
- 11.2. Recipient shall maintain protections required by law or the Agreement for any retained State of Oregon Information Asset for so long as Recipient (including through any subcontractor) retains it.

12. INDEMNIFICATION AND INSURANCE. Indemnification and insurance coverages provided by Recipient under the Agreement apply to this Privacy and Security Agreement.

13. COSTS. Each party will bear its own costs related to the acquisition of all equipment, software, data lines or connections necessary for Access, unless otherwise agreed to by written agreement between the parties. Each party is responsible for securing compatible hardware, equipment, and software, and network connections. Each party is responsible for complying with the licenses for third party products, including software and services that allow Access.

- 14. SURVIVAL.** Access and rights to use Information Assets ceases upon termination of this Privacy and Security Agreement. Rights and obligations which expressly or by their nature survive termination do so survive, and include this section, provisions regarding warranties and liabilities, indemnification, and confidentiality and non-disclosure.
- 15. INTERPRETATION.** Any ambiguity in this Privacy and Security Agreement will be resolved to permit ODHS to comply with applicable privacy and security laws and State of Oregon and ODHS policies interpreting those laws.
- 16. SUBCONTRACTORS.** Recipient shall ensure all subcontractors providing services related to this Privacy and Security Agreement are held to the same requirements as Recipient.

**EXHIBIT F-1
THIRD PARTY INFORMATION SYSTEM ACCESS REQUEST**

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Third Party Information System Access Request

An DHS or OHA program completes this form to request access for a **third-party entity*** (*organization or individual*) to data within an DHS or OHA information system or network.

**Please note that each entity only needs one form.*

 Hover over **blue** text for more information.

Request type (<i>required</i>): New request (ISPO will add agreement number)	Agreement number: 171482
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Section 1. Third party information

This section defines the third party needing access to DHS/OHA network and information system(s). A third party is any individual or entity that is not part of the DHS/OHA workforce. Workforce means employees, volunteers, trainees and other individuals whose DHS or OHA work is under that agency's direct control. This applies to paid and unpaid workforce members.

Third-party agreement administrator contact information

This individual signs the contracts for the third party. (This is NOT a DHS/OHA employee.)

Organization/entity name: Clackamas County Social Services (CCSS)	
Contact name (<i>first, last</i>):	Teresa Christopherson
Position/title:	Administrative Services Manager
Work street address:	2051 Kaen Road, 1st Floor
City, State, ZIP:	Oregon City, OR 97045
Phone:	503-650-5718
Email:	teresachr@clackamas.us
Website address (<i>optional</i>):	

Additional contact for third party

*This individual will be the contact for setting up or terminating users for the third party. (This is **not** a DHS/OHA employee.)*

Same contact information as above.

Section 2. Governing contract details

A DHS/OHA employee fills out this section. If a [governing contract](#) applies, please complete all applicable fields, below.

Does a governing contract establish a need for access? Yes No

Background checks

Please ensure all applicable required background checks are completed. DHS and OHA systems containing or accessing regulated data may require additional background check requirements beyond the pre-employment background checks. Regulated data sets requiring additional background checks include but are not limited to:

- Criminal Justice Information (CJI) in the Criminal Justice Information Services (CJIS) policy, 5.12.1 Personnel Security Policy and Procedures
- Federal tax information (FTI) as documented in Internal Revenue Service (IRS) Publication 1075, 5.1.1 Background Investigation Minimum Requirements.

Direct questions related to the background check process to BCU.Info@state.or.us or 503-378-5470 or 1-888-272-5545.

Section 3. Access description

Reason for access

Describe in detail the [business need](#) for access:

AAAs provide field support to Oregonians who need Aging and Disability Resource Connection (ADRC), Older Americans Act (OAA), and Oregon Project Independence (OPI) services.

Requested access start date: _____

Method of access

Check all methods the third party will use to access DHS/OHA information systems.

- DHS/OHA on-site Will only use DHS/OHA supplied PC, laptop or workstation: Yes No
- Remote access via [VPN](#) Will only use DHS/OHA supplied PC, laptop or workstation: Yes No
- Remote access via [Citrix](#)
- Access to folder on [Secure File Transfer Protocol \(SFTP\) server](#)
- Other (*explain below*): Will only use DHS/OHA supplied PC, laptop or workstation: Yes No

Access and information flow will occur from:

Information is exchanged in both directions between DHS/OHA and third party

Scope of access

List all system names the third party needs to access. (*This form authorizes access for the third-party organization as a whole. A partner number [P#] and a network login are needed to access the following information systems. The system-specific [individual user access request forms](#) must be used to request access for individual third-party employees using the system.*)

- Email:** DHS/OHA email account authorized. This authorizes the third party to get DHS/OHA email accounts after receiving a completed individual user access request form for each individual.

- Network:** Network login authorized. This authorizes the third party to get DHS/OHA network login IDs after receiving a completed individual user access request form for each individual.

System 1

Name of system: DHR Mainframe

Type of access requested: Read/write (please describe):

Description of access:

Access is required to provide Older American Act & Medicaid Services.

Expiration date of access:

Information type

Will information being shared or accessed be identifiable (*i.e., names, DOB, address, etc.*)?

Yes No

If yes, what protected information will be shared or accessed? (*Check all that apply.*)

- Protected health information (PHI) Personally identifiable information (PII)
 Financial information Federal tax information (FTI)
 Criminal justice information (CJI) Payment card information (PCI)
 Social Security Administration (SSA data)
 Other (*list below*):

Information owner review (*internal use only*)

Name of reviewer: Marci Lail

Review date: 08/02/2021

Access determination:

Role or group assigned (*if applicable*):

Access is: Granted as requested

Reason for determination:

System 2

Name of system: OR Access

Type of access requested: Read/write (please describe):

Description of access:

Access is required to provide Oregon Project Independence (OPI) services and accessed/utilized for Medicaid services work.

Expiration date of access:

Information type

Will information being shared or accessed be identifiable (*i.e., names, DOB, address, etc.*)?

Yes No

If yes, what protected information will be shared or accessed? (*Check all that apply.*)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Protected health information (PHI) | <input checked="" type="checkbox"/> Personally identifiable information (PII) |
| <input type="checkbox"/> Financial information | <input type="checkbox"/> Federal tax information (FTI) |
| <input type="checkbox"/> Criminal justice information (CJI) | <input type="checkbox"/> Payment card information (PCI) |
| <input type="checkbox"/> Social Security Administration (SSA data) | |
| <input type="checkbox"/> Other (<i>list below</i>): | |

Information owner review (*internal use only*)

Name of reviewer: Marci Lail

Review date: 08/02/2021

Access determination:

Role or group assigned (*if applicable*):

Access is: Granted as requested

Reason for determination:

System 3

Name of system: GetCare

Type of access requested: Read/write (please describe):

Description of access:

Access is required to provide ADRC services and Older Americans Act Services.

Expiration date of access:

Information type

Will information being shared or accessed be identifiable (*i.e., names, DOB, address, etc.*)?

- Yes No

If yes, what protected information will be shared or accessed? (*Check all that apply.*)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Protected health information (PHI) | <input checked="" type="checkbox"/> Personally identifiable information (PII) |
| <input type="checkbox"/> Financial information | <input type="checkbox"/> Federal tax information (FTI) |
| <input type="checkbox"/> Criminal justice information (CJI) | <input type="checkbox"/> Payment card information (PCI) |
| <input type="checkbox"/> Social Security Administration (SSA data) | |
| <input type="checkbox"/> Other (<i>list below</i>): | |

Information owner review (*internal use only*)

Name of reviewer: Ann McQueen

Review date: 06/08/2021

Access determination:

Role or group assigned (*if applicable*):

Access is: Choose one

Reason for determination:

System 4

Name of system: Random Moment Sampling

Type of access requested: Read/write (please describe):

Description of access: Access is required for time-tracking for Oregon Medicaid Administrative Claiming.	
Expiration date of access:	
Information type Will information being shared or accessed be identifiable (<i>i.e., names, DOB, address, etc.</i>)? <input checked="" type="radio"/> Yes <input type="radio"/> No	
If yes , what protected information will be shared or accessed? (<i>Check all that apply.</i>)	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input type="checkbox"/> Financial information	<input type="checkbox"/> Federal tax information (FTI)
<input type="checkbox"/> Criminal justice information (CJI)	<input type="checkbox"/> Payment card information (PCI)
<input type="checkbox"/> Social Security Administration (SSA data)	
<input type="checkbox"/> Other (<i>list below</i>):	
Information owner review (internal use only)	
Name of reviewer: Ann McQueen	Review date: 06/08/2021
Access determination: Role or group assigned (<i>if applicable</i>): Access is: Choose one Reason for determination:	

Check all methods the third party will use to access DHS/OHA information systems.

Section 4. Program sponsor

The **program sponsor** is the DHS or OHA manager who sponsors the requested access. That person must monitor and ensure the third party complies with the terms and conditions of the access agreement. (*Note that the program sponsor is usually the contract administrator of the governing contract authorizing the access.*)

Verification of need to know:	
<input checked="" type="checkbox"/> As program sponsor, I certify that sections 1 through 3 of this form note the minimum necessary access. Date: <u>06/09/2021</u>	
Name (<i>first, last</i>):	Ann McQueen
Position/title:	PEME
Office:	APD Design
Program:	APD
District name:	Central
Work street address:	500 Summer St NE
City, State, ZIP:	Salem, OR 97301
Phone (<i>include ext.</i>):	503-930-7293
Email:	ANN.E.MCQUEEN@dhsaha.state.or.us

Section 5. Program requestor

The [program requestor](#) is the DHS or OHA staff person who works with the third party on a day-to-day basis. That person requests the access agreement for the third party. The requestor can be the same person as the program sponsor or contract administrator. However, a program can list separate requestors/contract administrators. This will ensure all relevant parties receive contract communication and expiration notices.

Check this box and skip this section if the program requestor is also the program sponsor.

Name (<i>first, last</i>):	Rodney Schroeder
Position/title:	OPA3
Office:	APD Design
Program:	APD
District name:	Central
Work street address:	500 Summer St NE
City, State, ZIP:	Salem, OR 97301
Phone (<i>include ext.</i>):	541-305-3489
Email:	RODNEY.B.SCHROEDER@dhsaha.state.or.us

Submission

Click the submit button below to submit electronically, or email this completed form to the Information Exchange (InfoEx) Program within the Information Security and Privacy Office at DHSOHA.InfoEx@dhsaha.state.or.us. You can also email this address if you need more help.

Policy reference: <https://apps.state.or.us/Forms/Served/de090-003.pdf>

Submit by email

DHS/OHA Information Security and Privacy Office use only

Date received: 08.02.21	Date completed: 08.02.21
Date approved by all information owners: 08.02.21	Date executed: N/A
Notes: 785 on file. Part of the 118 process. PSA provided.	
Completed by: Shannon Corr	

Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

** CONCEPTION **

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Lead Department & Fund:

H3s/SSD - 240

Application for: Subrecipient Assistance Direct Assistance

Grant Renewal? Yes No

If renewal, complete sections 1, 2, & 4 only

If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Name of Funding Opportunity:

State IGGA - Older Americans Act & Oregon Project Independence Funding

Funding Source: Federal State Local

Requestor Information (Name of staff person initiating form):

Stefanie Reid-Danielson

Requestor Contact Information:

503-655-8330 or 503-320-8884 stefanierei@clackamas.us

Department Fiscal Representative:

same

Program Name or Number (please specify):

Various -

Brief Description of Project:

Funding to support Social Service Division Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older funded with Federal Older Americans Act funds and State Oregon Project Independence funds.

Name of Funding Agency:

Oregon Department of Human Services/Adults & People w/Disabilities/Community Solutions & Supports Unit

Agency's Web Address for funding agency Guidelines and Contact Information:

<https://www.oregon.gov/dhs/SENIORS-DISABILITIES/SUA/Pages/AAA-Financial.aspx>

OR

Application Packet Attached: Yes No

Completed By:

S. Reid-Danielson

Date

** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE **

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable:

93.044, 93.045, 93.043, 93.052, 93.053

Funding Agency Award Notification Date:

N/A

Announcement Date:

N/A

Announcement/Opportunity #:

N/A

Grant Category/Title:

AoA - Older Americans Act

Max Award Value:

7,500,000

Allows Indirect/Rate:

Yes @ 10%

Match Requirement:

25% for Admin & III-E (93.052); 10% for all other

Application Deadline:

N/A

Other Deadlines:

N/A

Award Start Date:

07/01/2021

Other Deadline Description:

N/A

Award End Date:

06/30/2023

Completed By:

S. Reid-Danielson

Program Income Requirement:

N/A

Pre-Application Meeting Schedule:

N/A

Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

These services link residents with resources to meet their individual needs. This helps them to remain independent and active in the community.

2. What, if any, are the community partners who might be better suited to perform this work?

3. What are the objectives of this funding opportunity? How will we meet these objectives?

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

Collaboration

1. List County departments that will collaborate on this award, if any.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

Kati Tilton

6/28/21

Kati Tilton

Digitally signed by Kati Tilton
Date: 2021.06.28 09:34:49 -07'00'

Name (Typed/Printed)

Date

Signature

**** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR ****

****ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Teresa Christopherson	6/28/21	Teresa D. Christopherson
Name (Typed/Printed)	Date	Signature

Digitally signed by Teresa D. Christopherson
Date: 2021.06.28 09:55:13 -07'00'

DEPARTMENT DIRECTOR (or designee, if applicable)		
Mary Rumbaugh for Rodney A Cook	8-11-2021	Mary Rumbaugh
Name (Typed/Printed)	Date	Signature

Digitally signed by Mary Rumbaugh
Date: 2021.08.11 09:06:20 -07'00'

FINANCE ADMINISTRATION		
Elizabeth Comfort	8.11.2021	Elizabeth Comfort
Name (Typed/Printed)	Date	Signature

Digitally signed by Elizabeth Comfort
Date: 2021.08.11 11:23:04 -07'00'

EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

(Required for all grant applications. If your grant is awarded, all grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)

For applications less than \$150,000:

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

For applications greater than \$150,000 or which otherwise require BCC approval:

BCC Agenda item #:

Date:

OR

Policy Session Date:

County Administration Attestation

County Administration: re-route to department contact when fully approved.
Department: keep original with your grant file.

November 4, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with SRS LLC
for On-Call Hotel Rooms for Temporary Housing Participants. Maximum Contact Value of
\$582,000 funded with Metro Supported Housing and Service Funds.
No County General Funds are involved.

Purpose/Outcomes	The purpose of the motel shelter program is to provide safety and temporary housing to this vulnerable population while partner agencies assist them with obtaining permanent housing.
Dollar Amount and Fiscal Impact	Maximum contract value is \$582,400.00.
Funding Source	Metro Supportive Housing and Services Fund
Duration	Upon signature to March 31, 2022
Previous Board Action	Agreement # 3974 approved 1/25/21
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 providing shelter to houseless medically fragile and vulnerable participants as they transition into permanent housing
Counsel Review	Reviewed by Counsel 10/4/2021 , Counsel Initials AN
Procurement Review	1. Was this time processed through Procurement? Yes 2. In no, provide brief explanation: N/A
Contact Person	Teresa Christopherson, Administrative Services Manager– 503-650-5718
Agreement No.	County #4687/ H3S#10408

BACKGROUND:

Clackamas County Social Services Division seeks approval of a contract with SRS LLC for on-call hotel rooms for temporary housing participants. This program provides safety and temporary housing to this vulnerable population while partner agencies assist them with obtaining permanent housing.

Between December, 2020, and March, 2021, the County, through its Social Services Division, developed a Non-Congregate Hotel Shelter program for houseless persons who were at high

risk of a COVID19 infection due to age or health conditions. There are approximately 95 households still housed in hotels. To avoid transitioning people back into an unhoused situation while we are seeking permanent housing options, the County will contract with motel/hotel owners'/operators' to provide shelter during this time. The program is expected to end by March 31, 2022.

The contract will be paid using Metro Support Housing and Services Funds. No county general fund is involved.

PROCUREMENT PROCESS:

This project was advertised in accordance with ORS and LCRB Rules on August 3, 2021, through RFQ 2021-66 the County requested for multiple contracts. The RFQ is continuously open to allow for multiple vendors to quote and for the County to award multiple contracts. The County received the quote from SRS LLC for the Econolodge on August 26, 2021. It was determined to be in the best interest of the county to move forward with the quote with SRS LLC.

RECOMMENDATION:

Staff recommends approval of this Contract.

Respectfully submitted,

Mary Rumbaugh

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



MOTEL/HOTEL SERVICES CONTRACT
Cobblestone Contract # 4687

This Motel/Hotel Services Contract (this "Contract") is entered into between SRS LLC, A Limited Liability Company of Nevada ("Contractor"), and Clackamas County, a political subdivisions of the State of Oregon ("County") on behalf of the Department Health, Housing and Human Services (H3S) for the purposes of providing hotel rooms for shelter for homeless families and individuals at the property described as Budget Inn Gladstone located at 19240 McLoughlin Blvd, Gladstone, Oregon 97027 ("Premises").

This Contract will also be used to secure motel/hotel rooms for other populations as the need arises. For example, in the event of a natural disaster or extreme weather event where housed and houseless county residents need temporary shelter.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect until March 31, 2022. 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

Contractor shall provide up to twenty three (23) hotel rooms on an on-call or as-needed basis, as further detailed in the Scope of Work attached and hereby incorporated by reference as Exhibit "B." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Additional Federal Terms and Conditions Exhibit "A," and Scope of Work Exhibit "B." Work shall be performed in accordance with a schedule approved by the County.

III. COMPENSATION

1. PAYMENT. County will provide up to \$572,400.00 in compensation for Contractor to provide hotel rooms, on an on-call or as-needed basis, and at the nightly rates set forth in Exhibit B, during the term of the Contract. Because this Contract is on an on-call or as-needed basis, and the exact number of rooms required by County, if any, is unknown, nothing herein shall be construed as a promise to pay Contractor the entire \$572,400.00 authorized under this Contract. Per Article IV, Section 10, damages to the Premises are limited up to two hundred fifty dollars (\$250.00) per guest stay or accumulative stays and shall not exceed a total of ten thousand dollars (\$10,000.00). The total compensation authorized under this Contract, including all possible damages under Article IV, Section 10, shall not exceed Five Hundred Eighty-Two Thousand Four Hundred Dollars (\$582,400.00).

2. TRAVEL EXPENSE REIMBURSEMENT. Authorized: [] Yes [X] 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 Exhibit B) 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 Erika Silver via email to teresachr@clackamas.us or mail at Community Development Division, 2051 Kaen Road, #245, Oregon City Oregon, 97045.

4. CONTRACTOR AND COUNTY CONTACTS.

Contractor Contract Administrator: Bob Patel Phone: 503-789-5194 Email: omrslc50@gmail.com	County Contract Administrator: Teresa Christopherson Phone: 503-650-5718 Email: teresachr@clackamas.us
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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 six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.
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. 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.
- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.

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

10. LIMITATION OF LIABILITIES.

- a. 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.

- b. **Damage to Premises:** Damage to the Premises arising from the acts of individuals staying in the rooms ("Guest" or "Guests") is limited to \$250 per Guest, per duration of stay or accumulation of stays, for a maximum not to exceed amount under this Contract of ten thousand dollars (\$10,000). The County shall not be liable to Contractor for any damages caused by Guests in excess of the ten thousand dollars (\$10,000) provided herein. The reimbursement provided herein is Contractor's sole remedy against County for the acts or omissions of Guests.
- c. **No Agency.** The parties expressly acknowledge and agree that the Guests are not agents, employees, contractors, or subcontractors of County, and that County has no control over the actions of Guests occupying the Premises.
- d. **Prior Inspection.** Prior to permitting Guests to occupy the Premises, a representative of both Contractor and County will perform a walkthrough of the Premises, including each room that may be occupied by a Guest, for purposes of documenting any preexisting real or personal property damage.

11. NOTICES. Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article II, Section 4. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

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.

12. 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 customary standards in the industry or business most closely involved in providing similar goods or services; 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.

13. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in the following Sections of Article IV: 1, 6, 7, 10, 12, 13, 14, 16, 19, 20, 21, 25, 28, and 30, and all other terms and conditions which by their context are intended to survive termination of this Contract.

- 14. 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.
- 15. 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, 7, 8, 12, 15, and 20 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.
- 16. 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.
- 17. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 18. TERMINATION.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 19. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the rooms rented as of the date written notice of termination is received by Contractor, at the rates set forth in the Contract, less any amounts previously paid and any right of setoff the County may have.
- 20. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to

give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

22. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence under this Contract.

23. FOREIGN CONTRACTOR. If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

24. FORCE MAJEURE. Neither County nor Contractor shall be held responsible for delay or default caused by 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.

25. WAIVER. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

26. COMPLIANCE. Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

27. INSPECTIONS. Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

28. FURTHER ASSURANCES. Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to,

executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

29. **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.

SRS LLC, A Limited Liability Company of
Nevada

Clackamas County

B. Patel 10/7/21
Authorized Signature Date

Chair Date

BHU PENBRA PATEL - member
Name / Title (Printed)

Recording Secretary

Approved as to Form:

1761572-96
Oregon Business Registry #

[Signature] 10/13/2021
County Counsel Date

FLLC/Nevada
Entity Type / State of Formation

EXHIBIT A
ADDITIONAL FEDERAL TERMS AND CONDITIONS

As used herein, "Contractor" means **SRS LLC, A Limited Liability Company of Nevada**, and "County" means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42

U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.

6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than E.O. 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or

internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. **DHS Seal, Logo, and Flags:** Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. **Compliance with Federal Law, Regulations, and Executive Orders:** This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. **No Obligation by Federal Government:** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. **Program Fraud and False or Fraudulent Statements or Related Acts:** Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. **Procurement of Recovered Materials (Reference 2 CFR 200.322):** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

**Byrd Anti-Lobbying Amendment Certification
for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:


- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of

Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, SRS LLC, A Limited Liability Company of Nevada, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

BHUPENDRA PATEL - MEMBER

Name and Title of Contractor's Authorized Official

10/7/21

Date

EXHIBIT B SCOPE OF WORK

Hotel Name and Address: Budget Inn Gladstone located at 19240 SE McLoughlin Blvd. Gladstone, Oregon 97027.

Rental Basis: Contractor shall provide up to twenty three (23) rooms on an as-needed basis.

Rental Rates: \$100 per day/room.

Service Provider: The County may use a third party service provider (“Service Provider”) to arrange for coordination of Guests. The Service Provider will serve as the guest coordinator and will have the specific responsibilities outlined below. The Service Provider for this Contract is: The Father’s Heart.

Responsibilities for Service Provider:

1. Service Provider will provide case management, including securing food, transportation, and other basic services.
2. Service Provider will provide at least weekly check-ins with homeless households residing in the hotel-based shelter.
3. Service Provider will provide interface with hotel owners during occupancy to resolve any misunderstandings or disagreements between Contractor and Guests.
4. Service Provider will accept referrals for hotel-based shelters from the Coordinated Housing Access system, and Clackamas County Emergency Operations Center (if applicable).
5. Service Provider will document and certify eligibility of each adult household member for hotel-based shelter services.
6. Service Provider will collect all invoicing documentation for reimbursement purposes on each household served with hotel-based shelter services.

All services must be conducted in a safe, masked, and social distanced manner. Telephone, text, email, video conference as well as in-person outdoor contacts are acceptable. Service Provider will use alternatives to in-person meetings whenever possible.

Responsibilities of Contractor:

Contractor shall provide the following additional services:

- Guest registration and key delivery
- Coordination with selected Service Provider
- No less than weekly cleaning, including fresh linens
- Daily retrieval of garbage, appropriately sealed and left outside the unit’s door
- Maintenance – regular and as needed
- 24/7 phone number for emergencies
- All commercially reasonable services related to the provision of hotel rooms

Additional terms and conditions:

Check in / Check out procedures: Service Provider will confirm check-ins and check-outs with the hotel management on a daily basis. Guests shall be required to execute a participant agreement on a form approved by the County prior to being checked in to the Premises.

No Tenancy: Clackamas County is renting these rooms as a homeless shelter. Guests may not establish residency in a homeless shelter and Guests have no property interest in the Premises. The County’s program for use of the Premises is not transitional, rental, nor permanent housing, and no tenancy or other

exclusive property interest in the Premises, or to any particular room, is established, intended, or expected. Contractor shall complete the attached Declaration of Persons-In-Charge of Property.

Guest issues: Contractor will communicate with Services Provider regarding any Guest issues. Contractor and Service Providers will work in good faith to resolve any issues and concerns.

Following general hotel rules: Guests will be required to follow hotel rules. Contractor will review and discuss these rules with the Service Provider.

Meals/Cooking in the room: There will be no cooking in rooms other than in microwave ovens if those are provided in the rooms.

Guests/overnight visitors: Guests may not have any overnight guests.

Personal belongings in room: Contractor shall permit Guests to have 2 large bags of personal items in the homeless shelter hotel room. Guests may not have pets except for service animals.

Phones: Guests may not place any long distance calls from the hotel room phone. Guests may have personal phones.

Cleaning: Contractor will clean and maintain rooms no less than weekly. Any extra ordinary cleaning or damages identified will be reviewed with the Service Provider, and is subject to the limitations of liability provisions set forth in Article IV, Section 10 of the Contract.

COVID-19: The County does not intend to place Guests with COVID-19 on the Premises. The Service Provider will coordinate needed healthcare services to Guests. Any Guest that tests positive for COVID may be moved by County to an appropriate facility for self-isolation for a duration in compliance with CDC recommendations. However, neither County nor its Service Provider will be providing COVID-19 testing services to the Guests prior to or during the term of this Contract. Contractor shall comply with County's and any other prevailing infectious disease protocols, whether involving the wearing of masks or gloves, maintaining physical distancing, or otherwise.

Transient Lodging Taxes: The parties do not anticipate transient lodging taxes with be assessed under applicable state or local law. In the event transient lodging taxes are assessed, County will be responsible for payment of the applicable state or local transient lodging tax assessed on rooms rented pursuant to this Contract.

DECLARATION OF PERSONS-IN-CHARGE OF PROPERTY
Relating to ORS 164.205 to 164.270 (Criminal Trespass)

DECLARATION: For purposes of ordering the removal or exclusion of persons from the real property commonly identified as the **Budget Inn Gladstone** located at **19240 SE McLoughlin Blvd. Gladstone, Oregon 97027** ("Property"), and for purposes of enforcing criminal trespass and other laws on the Property, the undersigned, as duly authorized representative of the owner of fee title to the Property ("Owner"), does hereby declare that the following are PERSONS IN CHARGE as that term is defined in ORS 164.205(5) for a period of three months from the date of signature below:

1. Any peace officer and any reserve officer as defined by Oregon law.
2. Any director, officer, and manager of Owner; and any employee of Owner on-site at the Property.
3. Any Commissioner, Chair, and Director of Clackamas County ("County"); and any employee of County on-site at the Property.
4. Any director, officer, and manager of a County services contractor operating the Property on behalf of County ("Contractor"); and any employee of Contractor on-site at the Property.
5. Any person providing security services to, for, or in connection with the Property pursuant to a contract with anyone listed in Paragraphs 1-4 above.

IT IS SO DECLARED:

Owner: B. Patela

Name/Title: BHUPENDRA PATEL - MEMBER

Date: 10/7/21

November 4, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18944 with Ride Connection, Inc. to Provide \$83,348 in HB
2017 Funding for Dedicated Dialysis Rides Provided by Social Services,
Transportation Reaching People;
No County General Funds are Required

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People to provide Dedicated Dialysis Rides to assist older and disabled county residents in meeting their transportation needs to receive dialysis treatment.
Dollar Amount and Fiscal Impact	The total agreement is \$83,348. This agreement is funded through the HB 2017 Statewide Transportation Improvement Funds being passed through Ride Connection
Funding Source	Statewide Transportation Improvement Funds (STIF). No required match. No County general funds are involved.
Duration	Effective July 1, 2021 and terminates on June 30, 2022
Previous Board Action	Issues Topic 11.2.21
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.
Counsel Review	County Counsel reviewed and approved the agreement on 9/30/21 KR
Procurement Review	1. Was this time processed through Procurement? No In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S #10396

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services requests approval of Agreement #18944 with Ride Connection, Inc. This agreement passes through STIF funding to be specifically used for dedicated dialysis rides provided by the Social Services Transportation Reaching People (TRP) program. This agreement provides continuation funding for the portion of the rides that are provided inside the TriMet District to areas that have been designated high equity needs area by the TriMet HD2017 Transit Advisory Committee. This project helps riders to remain independent in meeting their dialysis treatment needs for as long as possible.

The TRP program provides rides in either a lift equipped mini-buses or mini-vans driven by paid staff as well as with volunteer drivers providing rides in their own vehicles. TRP provides transportation to dialysis clinics located throughout the county and in the greater Portland-metro area in these vehicles. When possible, riders with a similar destination and arrival times ride together to increase program efficiencies. Generally, transportation is provided weekdays between 8:00 am and 5:00pm.

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. The maximum funding for this agreement is \$83,348. The term of the agreement is July 1, 2021 to June 30, 2022. County Council reviewed and approved this agreement on September 30, 2021. No County General Funds are involved. No matching funds are needed. This agreement provides the first year of the two-year grant funding that was awarded during the January 2021 application cycle.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that the Board Chair, or her designee, to sign on behalf of Clackamas County.

Respectfully submitted,



Rodney A. Cook, Director
Health Housing & Human Services

**SERVICES AGREEMENT #18944
BETWEEN
Ride Connection, Inc. and Clackamas County, by and through its Health, Housing and
Human Services Department Social Services Division**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division ("Subrecipient")

DEFINITIONS:

As used in this Agreement, which includes all Exhibits:

1. "Americans with Disabilities Act" ("ADA") means section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008.
2. "Capital Asset" means real property or tangible items purchased or leased with STIF moneys, including without limitation vehicles and structures, with a purchase price of \$5,000 or more and a useful life of at least one year.
3. "Commission" means the Oregon Transportation Commission ("OTC") established under ORS 184.612.
4. "Fiscal Year" means the annual period which begins on July 1 and ends on June 30.
5. "Low-Income Household" means a household the total income of which does not exceed 200% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) for the 48 Contiguous States and the District of Columbia.
6. "Project" means a public transportation improvement activity or group of activities that is (i) eligible for STIF moneys; (ii) included in a STIF Plan adopted by the Commission; and (iii) funded by this Agreement.
7. "Project Manager(s)" means the individuals identified in Section 12 of this Agreement who are authorized by Ride Connection and Subrecipient respectively to send and receive communications regarding this Agreement.
8. "Public Transportation Services" means any form of passenger transportation by car, bus, or other conveyance, either publicly or privately owned, which provides service to the general public (not including charter, sightseeing, or exclusive school bus service) on a regular and continuing basis. Such transportation may be for purposes such as health care, shopping, education, employment, public services, personal business, or recreation.

9. “Public Transportation Service Provider” (“PTSP”) means a Qualified Entity or a city, county, Special District, Intergovernmental Entity or any other political subdivision or municipal or Public Corporation that provides Public Transportation Services.
10. “Qualified Entity” means, a county in which no part of a Mass Transit District or Transportation District exists, a Mass Transit District, a Transportation District or an Indian Tribe.
11. “Recipient” means a Qualified Entity or Public Transportation Service Provider that has a STIF Plan approved by the Commission or enters into an Agreement directly with ODOT to receive STIF Formula Funds.
12. “Representation Letter” means a letter prepared by a Subrecipient’s external auditors and sign by Subrecipient’s senior management that attests to the accuracy of the statements that the Subrecipient has submitted to the auditors for their analysis.
13. “Satisfactory Continuing Control” means the legal assurance that a Capital Asset will remain available to be used for its originally authorized purpose throughout its useful life or until disposition.
14. “STIF” or “Statewide Transportation Improvement Fund” means the fund established under ORS 184.751.
15. “STIF Formula Fund” means up to 90 percent of the Statewide Transportation Improvement funds to be disbursed to Qualified Entities conditioned upon the Commission’s approval of a STIF Plan, pursuant to ORS 184.758(1)(a).
16. “STIF Formula Fund Cycle” means the time period between Fiscal Years 2019 through the end of Fiscal Year 2021 (June 30, 2021) that is programmed in the STIF Plan.
17. “STIF Plan” means a public transportation improvement plan that is submitted to the Oregon Department of Transportation for review and approved by the Commission in order to receive a share of the STIF Formula Fund.

RECITALS:

1. ORS 184.751 establishes the Statewide Transportation Improvement Fund, which appropriates funds to the Oregon Department of Transportation to finance investments and improvements in public transportation services.
2. The STIF Formula Fund is intended to improve Public Transportation Services for current and potential future Oregon transit users by distributing moneys to Qualified Entities. STIF Formula Funds are not intended to supplant local funding sources to maintain existing services.
3. The Commission has approved TriMet’s multi-year Plan for use of STIF Formula Funds through the end of Fiscal Year 2021. TriMet is a Recipient of STIF Formula Funds as it is authorized to receive STIF Formula Funds directly from the Oregon Department of Transportation. TriMet’s STIF Plan consists of numerous Projects to provide Public Transportation Services in TriMet’s area of responsibility based on anticipated STIF Formula Funds.

4. Subrecipient is authorized to receive STIF Formula Funds and provide Public Transportation Services in TriMet's Area of Responsibility as defined by OAR 732-040-0005(5).
5. TriMet's STIF Plan anticipates sufficient future STIF Formula Funds for Subrecipient for a Project or Projects that provide Public Transportation Services as specified in this Agreement.
6. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of accomplishing the Project(s).
7. Pursuant to ORS Chapter 184 and OAR Chapter 732, Divisions 40 and 42, TriMet and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STIF Formula Funds to Subrecipient in order for Subrecipient to complete one or more projects specified in the approved FY2022-23 STIF Plan. **Maximum amount of Grant funds shall not exceed \$83,348. These funds shall be used solely for the Project(s) and not be used for any other purpose.**

RECITALS:

1. TriMet has entered into a Public Transportation Services Contract with Oregon Department of Transportation, acting by and through its Oregon Department of Transportation ("ODOT") Contract ("ODOT Contract").
2. Ride Connection has entered into a contract with TriMet (the "TriMet Contract"). Under the TriMet Contract, Ride Connection will perform delegated functions in furtherance of TriMet's obligations under the ODOT Contract. Specifically, Ride Connection will act as an integration contractor to provide Public Transportation Services in the State of Oregon.
3. Ride Connection wishes to enter into subcontracting agreements with qualified transportation providers for the provision of Public Transportation Services, as more fully set forth in the Statement of Work, attached to Exhibit A (the "Services") in compliance with the terms of the TriMet Contract.
4. Subrecipient wishes to provide the Services under the terms and conditions of this Agreement.

The parties therefore agree as follows:

AGREEMENT:

1. Term

This Agreement shall be in effect from **7/1/2021** through **6/30/2022**, unless the Agreement is terminated earlier as provided in this Agreement.

2. General

A. Subrecipient agrees to comply with and use the STIF Formula funds in accordance with the terms of this Agreement including the terms and conditions of ORS 184.751 through 184.766, the provisions of OAR Chapter 732 Divisions 40 and 42, as may be amended,

TriMet's Approved FY2022-2023 STIF Plan, and any ODOT guidance documents pertaining to the Statewide Transportation Improvement Funds program, 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 Ride Connection regarding disbursement of STIF 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 and the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).

Subrecipient shall not be relieved of any responsibility for 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 184.751 through 184.766 and the provisions of OAR Chapter 732, Divisions 40 and 42, as may be amended, and the terms of this Agreement. Where provided in this Agreement, Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound as provided in this Agreement and exhibits thereto.

- 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.
- 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.
- 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 in 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 Workplace Agreement - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

3. Audit Requirements/Financial Management Procedure

A. STIF 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 184.751 through 184.766 and OAR Chapter 732, parts 40 and 42, 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 STIF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall account for STIF Formula Funds separately. Any interest accrued must be added to the moneys and must be reported to Ride Connection at the end of the Fiscal Year in which it was earned.

- 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 Secretary of the State of Oregon, and the Comptroller General of the United States, or any of their authorized representatives, upon reasonable notice, access to all data and records relating to STIF Formula Funds received or disbursed and to inspect the STIF Plans and Projects financed with STIF Formula Funds including, but not limited to, the financial records, physical premises, and Capital Assets used to deliver public transportation services, 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. Subrecipient shall ensure that its agreements or contracts with subcontractors or vendors include provisions which permit TriMet, ODOT, the Secretary of State of Oregon, or their authorized representatives, access to data and records held by the Subrecipient or vendor as described in this Section.
- E. 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.

4. Reporting Requirements

- A. In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than the **20th** day 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.
- B. 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, if match is required and expenses.
 - A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.
- C. 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.
- D. Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.
- E. In addition to any other reporting required by this Agreement or by law, Subrecipient shall submit the following electronic documentation to Ride Connection:
 - The Subrecipient's adopted annual budget for the upcoming Fiscal Year must be submitted no later than 30 days after adoption. A subcontractor is not required to submit its organization's annual budget.
 - The results of any relevant financial audits of the Subrecipient or any subcontractor, as required by a local, state or federal oversight agency for the purposes of statewide reporting including, but not limited to any other report concerning the financial and administrative activities of Subrecipient as required by law that affects the ability of Subrecipient or a subcontractor to perform the functions or programs funded by this Agreement.
- F. Results of audits described in this Section must be submitted to Ride Connection no later than 15 days after receipt of the final results. A copy of information submitted under this Section must be sent to Ride Connection no later than 15 days after submittal to the requesting agency.

5. 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 or compliance review findings relating to the Subrecipient's performance. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STIF funding requirements hereunder by

Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet 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. .

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.

6. 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 STIF 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.

Subrecipient will include the terms of this Section 6 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

7. Insurance

Contractor must maintain insurance as set forth in Exhibit F.

8. Independent Contractor/Indemnification

A. **General Indemnity.** To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Subrecipient agrees to indemnify and defend Ride Connection, the State of Oregon, and their respective officers, shareholders, members, directors, employees, and agents (the "Indemnitees") and hold them harmless from, for, and against any and all claims, loss, damages, liability, costs, expenses (including), judgments, and obligations), directly or indirectly arising out of or related to the Services or Contractor's performance (including nonperformance and omissions) under this Agreement. Indemnifiable events include but are not limited to:

- a. Unauthorized disclosure of confidential records or protected information, including without limitation records and information protected by the Health Insurance Portability and Accountability Act and the federal regulations implementing the

Act (collectively referred to as "HIPAA"), 42 CFR Part 2, ORS 646A.600 through 646A.628, or OAR 943-014-0400 through 943-014-0465;

- b. Breach or nonfulfillment of any representation, warranty, or covenant set forth in this Agreement;
 - c. Any negligent, wrongful, or culpable act or omission of Contractor in connection with the performance of the Services and its other obligations under this Agreement;
 - d. Any bodily injury or death of any person, damage to real or tangible personal property, or infliction of distress, harassment, or discrimination caused by any acts or omissions of Contractor;
 - e. Any claim related to or arising from Subrecipient's employment or engagement of its agents, Drivers, or other personnel, and the conditions of that employment or engagement; or
 - f. Any failure by Contractor to comply with any Legal Requirements in the performance of the Services or its other obligations under this Agreement.
- B. **Subrecipient Responsibility.** Ride Connection's acceptance of any Subrecipient insurance certificate required under this Agreement does not relieve Subrecipient, or anyone for whose acts Subrecipient is responsible, of liability under this Agreement. Subrecipient's obligations under this Section 8 will survive termination or expiration of this Agreement.
- C. Subrecipient will include the terms of this Section 8 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

9. Limitation of Liability

- A. Ride Connection will not under any circumstances be responsible for any direct, indirect, incidental, special, exemplary, punitive, treble, statutory, or consequential damages or losses (including but not limited to loss of revenue, profit, or use or cost of capital) arising out of or related in any way to this Agreement, the transactions contemplated in this Agreement, or actions or inactions of Ride Connection that arise or relate to Ride Connection's performance under this Agreement, whether or not the possibility of such damages has been disclosed to Ride Connection in advance or could have been reasonably foreseen by Ride Connection.
- B. The parties expressly understand and agree that Ride Connection's overall liability is limited and that under no circumstances will Ride Connection's liability in connection to this Agreement exceed the total payments made by Ride Connection to Subrecipient over the preceding 12 months.

10. Suspension

Ride Connection, at its sole discretion, may suspend this Agreement at any time and for any length of time pending investigation of any concerns about Subrecipient's provision of the Services or compliance under this Agreement, or for any other reasons identified in this Agreement. Ride Connection may reinstate Subrecipient to provide the Services once Ride Connection determines, in its sole discretion, that Subrecipient is following, or will follow, the

terms and conditions of this Agreement or that concerns about Subrecipient's provision of the Services are resolved to Ride Connection's satisfaction.

11. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment purchased with STIF Formula funds 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.

Subrecipient will include the terms of this Section 11 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

12. 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 **\$83,348**.

C. Subrecipient shall document eligible use of STIF funds in accordance with this Agreement.

D. All invoices shall be submitted electronically to Ride Connection Partner Reporting at partnerreporting@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.

13. Communications

All notices and other communications concerning this Agreement must bear the number assigned to this Agreement by Ride Connection. Notices and other communications may be

delivered personally, by e-mail, by fax, or by regular, certified, or registered mail, unless a specific method of delivery is required under this Agreement, to the parties' respective Project Managers as indicated below:

Ride Connection:	Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division:
John Whitman 9955 NE Glisan St. Portland, OR 97220	Kristina Babcock 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.

14. Default, Remedies, and Termination

- A. **Default.** Subrecipient is in default under this Agreement if Ride Connection provides a written notice of default under any of the following circumstances or under any other provision of this Agreement granting a specific right of termination, unless the default is cured, as described in this Agreement:
- a. Subrecipient institutes or has instituted against it insolvency, receivership, or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - b. Subrecipient fails to ensure that no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) occurs without thirty (30) days prior written notice from Subrecipient of its insurer, which will be made to Ride Connection;
 - c. Subrecipient commits any breach of this Agreement, fails to perform the Services required under this Agreement within the time specified in this Agreement or any extension thereof, or so fails to pursue the Services as to endanger Subrecipient's performance under this Agreement in accordance with its terms, and such breach or failure is not cured within seven (7) days of receipt of Ride Connection's written notice, or such longer period as Ride Connection may specify in such written notice;
 - d. Subrecipient fails to meet the applicable requirements of 1932, 1903(m) or 1905(t) of the Social Security Act;
 - e. Subrecipient knowingly has a director, officer, partner or agent with beneficial ownership of five percent (5%) or more of Subrecipient's equity, or has an employment, consulting or other subcontract agreement for the provision of items and services that are significant and material to Subrecipient's obligations under this Agreement, as specified in 42 CFR §438.610, concerning whom:
 - i. Any license or certificate required by law or regulation to be held by such person to provide Services required by this Agreement is for any reason

denied, revoked, or not renewed;

- ii. Such person is suspended debarred or otherwise excluded from participating in procurement activities under Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order; or
- iii. Is convicted of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, or XX of the Social Security Act or related laws (or entered a plea of nolo contendere).

f. If Ride Connection, TriMet, or the State of Oregon determines that the health or welfare of the public is in jeopardy if this Agreement continues

B. Remedies for Default. In the event Subrecipient is in default of this Agreement, Ride Connection may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including but not limited to:

- a. Termination of this Agreement;
- b. Withholding of all sums due for Services that Subrecipient has failed to deliver within any scheduled completion dates or has failed to perform service as requested;
- c. Recoupment or withholding of valid overpayments.

These remedies are cumulative to the extent remedies are not inconsistent or duplicative, and Ride Connection may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

C. For Convenience.

- a. Except as otherwise set forth below, this Agreement may be terminated for Ride Connection's convenience upon 30 days' notice in writing, delivered by certified mail or in person.
- b. At its sole discretion and without liability to Subrecipient, Ride Connection may terminate this Agreement:
 - i. Upon receipt of written notice of termination to Subrecipient, if ODOT fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow TriMet or Ride Connection, in the exercise of its discretion, to continue to make payments under this Agreement;
 - ii. Upon receipt of written notice of termination to Subrecipient that ODOT's purchase or continued use of the Services or under the ODOT Contract is prohibited or that ODOT is prohibited from paying for the same; or
 - iii. Notwithstanding any claim Subrecipient may have under this Agreement, upon receipt of written notice of termination to Subrecipient if Ride Connection reasonably determines that continuation of the Agreement

poses a threat to the health, safety, or welfare of any Customer.

- D. **Immediate Termination for Cause.** Notwithstanding anything to the contrary in this Agreement, this Agreement will automatically terminate for cause on the date that Subrecipient (1) has been terminated from ODOT or is subject to exclusion for any lawful conviction by a court for which the Subrecipient could be excluded under 42 CFR §1001.101 and 42 CFR §455.3(b).
- E. **Payment upon Termination.** Upon Ride Connection's termination of this Agreement for convenience or cause, or upon Subrecipient's termination as described in this Agreement, Subrecipient has 15 days from the date of notification in which to submit and verify data for all unpaid Services. If timely submitted and verified, Subrecipient will be compensated for all the Services performed in accordance with this Agreement up to the effective termination date, minus any offsets by Ride Connection for overpayments or any other costs or damages suffered by Ride Connection.
- F. **Nonwaiver of Suspension/Termination Rights.** Ride Connection's failure to suspend or terminate Subrecipient for any violation of this Agreement will in no way waive, limit, or abrogate Ride Connection's right in its sole discretion to suspend or terminate Subrecipient for any other violations, including past violations. Similarly, Ride Connection's limited degree or duration of a suspension or termination of Subrecipient for a past violation of this Agreement will in no way waive, limit, or abrogate the degree or duration of suspension or termination that Ride Connection in its sole discretion may issue for any other violation, including past violations. Upon termination of this Agreement, Ride Connection may withhold payment of any outstanding claims pending financial audit.
- G. **Contractor Termination.** Contractor may terminate this Agreement upon 30 calendar days' written notice to Ride Connection.

15. Assignment/Subcontracts

- A. 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.
- B. 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.

16. 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 of 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. Notice must 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 calendar days of the date of notice. Within ten days after delivery of the initial notice, the executives of both parties will 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 under this Paragraph shall be confidential and shall be treated as compromise and settlement negotiations for purposes of law and rules of evidence. Time requirements in this Agreement may be modified upon the parties' mutual written consent.

- B. **Mediation.** If the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims must then be submitted to mediation within ten 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 is to be held in Portland, Oregon. This agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement is specifically enforceable under the prevailing law of any court having jurisdiction.
- C. **Litigation.** If the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution by bringing a claim, suit, action, or proceeding (collectively, the "claim") solely and exclusively within the Circuit Court of Multnomah County; provided, however, if a claim must be brought in a federal forum, then it will be conducted solely and exclusively within the United States District Court for the District of Oregon, Portland Division. The parties will submit to the personal jurisdiction of the above courts, accordingly.

Costs and Award. The prevailing party in any litigation is eligible for the award of all dispute resolution costs and expenses.

17. Claims, Notice

- A. **Notice Period** - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five 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. However, Contractor's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

18. Confidentiality

Subrecipient must comply, and require its employees and all other persons performing services for Subrecipient related to this Agreement to comply, with the following confidentiality provisions:

- A. **General.** Except as otherwise set forth in paragraphs below, Subrecipient must treat all information obtained by or through its performance under this Agreement as confidential information ("Confidential Information") and may not disclose it to any other person or use the Confidential Information in any manner except as necessary to properly discharge its obligations under this Agreement. But Subrecipient may disclose Confidential Information, after seven days' notice to Ride Connection, if disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator order. Subrecipient may also disclose Confidential Information to its employees, consultants, subcontractors and their employees, and others who need to know the content of the Confidential Information solely and exclusively for provision of the Services under this Agreement and who agree to maintain the confidentiality of the Confidential Information. If more stringent confidentiality requirements are imposed with relation to Confidential Information under the Legal Requirements, however, Subrecipient must comply with the more stringent standards.
- B. **Customer Information.** Except as required by other terms of this Agreement, all information obtained by Subrecipient about individuals they serve must be treated as Confidential Information and may not be divulged without the written consent of the individual or their legal guardian. Nothing prohibits the disclosure of information in summary, statistical, or other form, as long as it does not identify particular individuals and is otherwise permitted under this Agreement.
- C. **Media Disclosure.** Subrecipient may not provide information to the media regarding any individuals served under this Agreement without first consulting with and receiving approval from Ride Connection. Subrecipient must immediately notify Ride Connection when media contact occurs. Ride Connection will assist Subrecipient with an appropriate follow-up response for the media.

19. Certificate of Oregon Tax Law Compliance

By execution of this contract, Subrecipient certifies under penalty of perjury as provided in ORS 305.385(6) that it is, to the best of its knowledge, not in violation of any Oregon tax law. For purposes of this certification, "Oregon Tax Laws" are ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Elderly Rental Assistance Program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

20. 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.

21. Waiver

No waiver or other consent under this Agreement will bind either party unless it is in writing and signed by the party to be bound. The waiver or consent will 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 will not constitute a waiver by that party of that or any other provision.

22. Severability

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

23. Remedies Cumulative

The remedies exercisable by Ride Connection under this Agreement are cumulative and will in no way affect any other remedy available under the law to Ride Connection.

24. Merger Clause

This Agreement constitutes the entire agreement between the parties and no waiver, consent, modification, or change of terms of this Agreement will bind either party unless it is in writing and signed by both parties. Such a waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement regarding the parties' agreement. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

25. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions of this Agreement shall survive and continue to be in full force and effect: 2C (Audit); 8 (Indemnification); 18 (Confidential Information); 16 (Dispute Resolution); 20 Governing Law, 25(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

26. Agreement Documents

This Agreement consists of this Agreement, together with the following exhibits and exhibit attachments, which are incorporated by this reference. Subrecipient agrees to comply with all of the applicable requirements described in the exhibits and to ensure that all exhibits requiring signatures are executed by the appropriate parties and returned to Ride Connection.

- 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

27. Entire Agreement/Authority

- A. 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.
- B. 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.
- C. This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- D. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

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.

**Clackamas County, by and through its
Health, Housing and Human Services
Department Social Services Division**

Signature

Julie Wilcke Pilmer
Printed Name

Chief Executive Officer
Title

Date

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

Signing on Behalf of the Board:

By: _____
Tootie Smith, Chair

Approved to Form:

By: _____
County Counsel

Dated: _____

EXHIBIT A

Clackamas County Social Services

Contract No. 18944

SCOPE OF WORK

July 1, 2021

Project Title: Dedicated Dialysis Service - Demand Response & Operating Assistance

Funding Source Definitions and Restrictions

Project STIF Funds Total for FY22: \$83,348

The goods and/or services to be provided by Clackamas County Social Services include, but are not limited to the following:

A. Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other Transportation providers Ride Connection contracts with to provide transportation services (“Service Partners”) in the network to meet the demand for service in a cost-effective manner.

B. Coordinate Customer Information, Referral, and Trip Scheduling Activities with the Ride Connection Service Center:

Service partners, who utilize the Ride Connection Service Center to coordinate trips, recognize that this service is currently being funded by dollars outside of this contract. Service Partners agree to work with Ride Connection to investigate opportunities and create solutions to recoup costs accrued for the service performed. Not currently applicable to the Clackamas County programs.

C. Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

D. Provide Shared Capacity Trips:

With increased coordination among service partners, opportunities arise for providers to serve customers who reside in, or have trips originating or ending in areas outside the defined Service Area specified in this contract. Such activity is encouraged to reduce deadhead time on longer distance trips and maximize available capacity. STF Formula funds can be used to cover the costs associated with Shared Capacity Trips. If service boundaries need to be adjusted, partners will be asked to participate in the planning and decision making necessary to align service boundaries with need.

E. Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.

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- F. Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.
- G. Participate with Ride Connection, TriMet and other partners in the development of local, regional and agency specific service plans. Help recruit customers to actively participate in planning processes and service design.
- H. Increase coordination between Ride Connection, other services partners and TriMet to increase transportation options for older adults and people with disabilities. Share information on customers, trips, and destinations with Ride Connection, TriMet, and other partners and jointly plan new services or service changes.
- I. Coordinate outreach activities with Ride Connection. Perform marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.
- J. Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.
- K. Establish transportation options, for older adults or people with disabilities, in the community at large that encourage group trips to common community destinations such as shopping, recreation, senior centers, and nutrition sites.
- L. Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- M. Provide Ride Connection with back up documentation for billing line items upon request.
- N. Orient drivers to the agency's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- O. Attend regular coordination and training meetings to be conducted by Ride Connection.
- P. Allow TriMet, ODOT, or Ride Connection representatives to contact a random sample of clients for monitoring and service verification purposes. Clients will be contacted by mail or phone. Agencies will be given a copy of the questionnaire in advance of mailing.
- Q. Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- R. Implement Ride Connection's client donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- S. Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- T. Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.

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- U. Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.
- V. Provide service throughout the contract term.

Project Description:

The Dedicated Dialysis project provides rides to older adults (age 60+) and people with disabilities in Clackamas County who have limited access to transportation for dialysis treatment. This service acts as a lifeline for riders who typically would not have access to alternative no-cost/low-cost transportation to meet their treatment needs. These trips originate in the Clackamas County area of the TriMet district but may transport to anywhere in the metro region. Drivers, including volunteers, are trained for safely transporting dialysis patients.

These TRP rides are provided using three wheelchair accessible vans, two wheelchair accessible buses, and operated by paid drivers. TRP volunteer drivers also provide limited rides in their own vehicle. Taxis are utilized on a limited basis and only when a TRP driver/vehicle, paid or volunteer, isn't available. Riders receive door to door service.

Transportation is provided Monday through Friday. Riders simply call the TRP office to schedule a ride.

Marketing is not done in the traditional sense. Information about the service is regularly distributed to Community Partners & dialysis centers.

Project Funding:

Category			Total Project Cost
	FY22 Amount	FY23 Amount	
Planning:			
Operating:	\$83,348	\$85,850	\$169,198
Capital:			
Administrative:	0	0	0
Other (describe):			
Total:	\$83,348	\$85,850	\$169,198

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Project Funding Sources:

Funding Source	FY22 Amount	FY23 Amount	Total Amount
Source 1: STF/STIF/5310 Funds Requested	\$83,348	\$85,850	\$169,198
Source 2: STF/STIF Ride Conn. Pass-Through	\$589,150	\$606,821	\$1,195,971
Source 3: STF County Consortium	\$33,527	\$34,532	\$68,059
Source 4: 5310 County Consortium	\$38,973	\$38,973	\$77,946
Source 5: STIF County Consortium	\$43,900	\$45,217	\$89,117
Source 6: OAA Title III-B	\$150,000	\$150,000	\$300,000
Source 7: Medicaid for Waivered Non-Medical Transportation	\$33,450	\$33,450	\$66,900
Source 8: In District (TriMet)	\$206,669	\$206,669	\$413,338
Source 9: Sr. Ctr. Agency Other	\$25,000	\$25,000	\$50,000
Source 10: Rider Donations	\$20,000	\$20,500	\$40,500
Total:	\$1,224,017	\$1,247,012	\$2,471,029

Project Measurables:

Measurable	FY22:	FY23:	Total
One way Rides	N/A	N/A	N/A
Senior/Person w/ Disability One way Rides	2,300	2,500	4,800
Total paid driver hours	2,500	2,700	5,200
Total volunteer driver hours (increase in hours over FY18 baseline)	30	30	60
Cost per trip	36.21	37.20	36.71
# of individuals served	50	52	102
Vehicle Hours	N/A	N/A	N/A
Vehicle Miles	22,500	22,500	45,000

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SPECIFIC AGREEMENT PROVISIONS

Subrecipient shall comply with the provisions as set forth in this Exhibit. Where provided in Exhibit B, Subrecipient shall require each of its subrecipients or subcontractors to comply with the provisions as set forth in this Exhibit.

1. **Representations and Warranties of Subrecipient.** Subrecipient represents and warrants to Ride Connection as follows:
 - A. **Organization and Authority.** Subrecipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the STIF Formula Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subrecipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.
 - B. **Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
 - C. **No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to sub agreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
 - D. **No Debarment.** Neither Subrecipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Subrecipient agrees to notify Ride Connection immediately if it is debarred, suspended, or otherwise excluded from this federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.
 - E. **Policies and Procedures.** Subrecipient represents and warrants that it has all of the policies and procedures in place to ensure compliance with OAR 732, Divisions 40 and 42, and to achieve the goals and outcomes specified in the Agreement, including but not limited to program and project management, financial management, operations management, procurement, use and maintenance of equipment, records retention, compliance with state and federal civil rights laws, compliance with the Americans with Disabilities Act (ADA),

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charter and school bus, and safety and asset management.

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

2. Records Maintenance and Access; Audit.

- A. **Retention of Records.** Subrecipient shall retain and keep and require its subrecipients and subcontractors to retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the STIF Formula Funds, or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the expiration date of this Agreement. If there are unresolved audit questions at the end of the six-year period, Subrecipient, its subrecipients and subcontractors shall retain the records until the questions are resolved.
- B. **Expense Records. Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall create and maintain all expense records in accordance with generally accepted accounting principles and in sufficient detail to permit Ride Connection to verify how the funds were expended.
- C. **Audit Requirements.** To the fullest extent permitted by law, Subrecipient shall save, protect and hold harmless Ride Connection from the cost of any audits or special investigations performed with respect to the STIF Formula Funds expended under this Agreement as a result of Subrecipient's acts. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this Agreement. This section does not apply to regular audit and compliance reviews that are conducted pursuant to this Agreement.

3. Subrecipient Sub agreement and Procurement

- A. **Sub agreements.** Subrecipient may not enter into agreements with contractors or subcontractors (collectively, "sub agreements") for performance of the Project unless prior approval has been obtained in writing.
 - i. All sub agreements must be in writing executed by Subrecipient and must incorporate and pass through all of the applicable requirements and Exhibits of this Agreement to the other party or parties to the sub agreement(s). Use of a sub agreement does not relieve Subrecipient of its responsibilities under this Agreement. Subrecipient agrees to provide Ride Connection with a copy of any signed sub agreement upon request by Ride Connection. Any substantial breach of a term or condition of a sub agreement relating to funds covered by this Agreement must be reported by Subrecipient to Ride Connection within ten (10) days of its being discovered.
- B. **Subrecipient's subagreement(s) shall require the other party to such subagreement(s) to indemnify, defend, save and hold harmless Ride Connection, Clackamas County, TriMet, the State of Oregon, and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including reasonable attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's sub agreement or any of such party's officers, agents, employees or subcontractors ("Claims"). The sub agreement**

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shall specifically state that it is the specific intention that Ride Connection shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of Ride Connection, be indemnified by the other party to Subrecipient's sub agreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subcontractors"), nor any attorney engaged by Subrecipient's Subcontractor(s), shall defend any claim in the name of TriMet nor purport to act as legal representative of TriMet without the prior written consent of TriMet. TriMet may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's Subcontractor is prohibited from defending TriMet or that Subrecipient's Subcontractor is not adequately defending TriMet's interests, or that an important governmental principle is at issue or that it is in the best interests of TriMet to do so. TriMet reserves all rights to pursue claims it may have against Subrecipient's Subcontractor if TriMet elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its sub agreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit F to this Agreement.

- C. **Procurements.** Subrecipient will make purchases of any equipment, materials, or services for the Project in compliance with all applicable procurement laws and policies.

4. Termination

- A. **Termination by Ride Connection.** Ride Connection may terminate or suspend this Agreement, in whole or part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection in such written notice, under any of the following conditions, but not limited to those conditions:
- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. Ride Connection fails to receive funding, appropriations, limitations or other expense authority sufficient to allow Ride Connection, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if Ride Connection determines to terminate or suspend for its own convenience; or
 - iii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expense of funds; or
 - v. 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.
- B. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to Ride Connection, or at such later date as may be established by Subrecipient in such written notice, if:

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- i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
 - ii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- C. **Effect of Termination.** The expiration or termination of this Agreement or any Project, for any reason, shall not release Subrecipient from any obligation or liability to Ride Connection, any requirement or obligation that:
- i. Has already accrued hereunder;
 - ii. Comes into effect due to the expiration or termination of the Agreement; or
 - iii. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement or any Project as provided in this Section, Subrecipient shall promptly identify all unexpended funds and return all unexpended funds to Ride Connection. Unexpended funds are those funds received by Subrecipient under this Agreement that (i) have not been spent or expended to pay the costs or expenses of the Project or Projects; and (ii) are not required to pay costs or expenses of the terminated Project(s) that will become due and payable as a result of the termination of the Project(s).

Subrecipient's identification and calculation of unexpended funds in this Section is Subject to the requirements of this Agreement.

5. General Provisions

- A. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against Ride Connection or Subrecipient with respect to which the other party may have liability, the notified party must promptly notify the other party in writing of the Third Party Claim and deliver to the other party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a party of the notice and copies required in this paragraph and meaningful opportunity for the party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which Ride Connection is jointly liable with Subrecipient (or would be if joined in the Third Party Claim), Ride Connection 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 Subrecipient in such proportion as is appropriate to reflect the relative fault of Ride Connection on the one hand and of the Subrecipient 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 Ride Connection on the one hand and of Subrecipient 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. Ride Connection's contribution amount in any instance is

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capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if Ride Connection had sole liability in the proceeding.

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

- B. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America, Ride Connection or any other party, organization or individual.
- C. **No Third Party Beneficiaries.** Ride Connection and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- D. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to Subrecipient's Project Manager or Ride Connection's Project Manager at the address or number set forth in Section **13 Communications** of this Agreement, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given three days after the date of mailing
- E. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Ride Connection and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah

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County in the State of Oregon. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.

- F. **Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its contractor(s) and subcontractor(s) complies with these requirements. Subrecipient shall include in any subcontracts to perform services pursuant to this Agreement a provision requiring a subcontractor to comply with this Subsection F, and that failure to do so is a material breach of the subcontract with Subrecipient.
- G. **Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of Ride Connection. Subrecipient 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 has no right or authority to incur or create any obligation for or legally bind Ride Connection in any way. Ride Connection cannot and will not control the means or manner by which Subrecipient performs the Project, except as specifically set forth in this Agreement. Subrecipient is responsible for determining the appropriate means and manner of performing the Project. Subrecipient acknowledges and agrees that Subrecipient, its officers, directors, employees, subcontractors or volunteers are not an "officer," "employee," or "agent" of Ride Connection, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither Subrecipient, nor its directors, officers, employees, subcontractors, or volunteers shall 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.

EXHIBIT C

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Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)

Provider and Provider’s Subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at <https://www.transit.dot.gov/grantee-resources/certifications-and-assurances/fy2021-annual-list-certifications-and-assurances>. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Provider must submit to Ride Connection on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing the form available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>, completing the form, and sending it to Ride Connection.

Provider shall comply with the following provisions and require in its subagreements that the subcontractors comply with each of the following provisions as if the subcontractors were Provider:

Provider agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at <http://fta.dot.gov/documents/21-Master.pdf>. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and three grant Funds being disbursed to Provider under this Agreement:

1. Provider shall comply with Title VI of the Civil Rights Act of 1964 and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Provider shall exclude no person on the grounds of race, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Provider will report to Ride Connection on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Provider shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.

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3. Provider shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Provider shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Provider's DBE program, if applicable, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Ride Connection of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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NONDISCRIMINATION CERTIFICATE

Subrecipient certifies compliance with the following nondiscrimination requirements:

Nondiscrimination

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Subrecipient assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient assures that it will submit the required information pertaining to its compliance with these provisions.
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any Subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for

EXHIBIT D

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which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
- (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

Subrecipient acknowledges that it is subject to the requirements of FTA Circular 4702.1A "*Title VI and Title VI-Dependent Guidelines for FTA Recipients*" as a Subrecipient of federal funds under this Agreement. Further, Subrecipient shall provide Title VI compliance information and measures as may be determined by Ride Connection pursuant to the Circular.

Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Subrecipient assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Subrecipient assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

EXHIBIT E

Clackamas County Social
Services Agreement # 18944

Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the 20th of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to the Service Data Specialist:

Fax (503) 528-1755

partner_reporting@rideconnection.org

EXHIBIT F

Clackamas County Social Services
Agreement # 18944

INSURANCE REQUIREMENTS

General

Subrecipient shall obtain and provide, and require in its first tier sub agreements with entities that are not units of local government as defined in ORS 190.003, if any, that the subcontractor obtain and provide the same insurance applicable to Subrecipient for subcontractor's performance under is sub agreement:

- i. Insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance of this Agreement and of any sub agreement commences, and
- ii. Maintain the insurance in full force throughout the duration of this Agreement and sub agreement. Proof of sufficient self-insurance shall satisfy this requirement.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Ride Connection. Subrecipient shall not commence work under this Agreement, and shall not authorize work to begin under a sub agreement until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements in its sub agreements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the sub agreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a sub agreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a sub agreement in which the Subrecipient is a Party.

Subrecipient shall comply with any requirements of Ride Connection with respect to Subrecipient's compliance with these insurance requirements, including but not limited to Ride Connection issued stop work orders (or the equivalent) until the insurance is in full force, or terminating the Contract as permitted by this Contract, or pursuing legal action to enforce the insurance requirements.

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. Prior to commencement of work under this Agreement, Subrecipient shall furnish to Ride Connection a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements 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.

Subrecipient, as well as all of its subcontractors 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:

EXHIBIT F

Clackamas County Social Services
Agreement # 18944

Types and Amounts

- I. **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).

The employer's liability limit shall not be less than \$500,000 each accident for bodily injury by an accident and \$500,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.

- II. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to Ride Connection. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

Insurance policy shall include Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.

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

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).

Additional Insured

The Commercial General Liability Insurance and Automobile Liability insurance must include State and Ride Connection, and their respective officers, employees and agents as Additional Insureds but only with respect to the Subrecipient's activities to be performed under the Agreement and, with respect to subcontractors, activities to be performed under their sub agreements. Coverage must be primary and non-contributory with any other insurance and self-insurance.

The insurance required under this Paragraph shall include Ride Connection, TriMet, 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.

EXHIBIT F

Clackamas County Social Services
Agreement # 18944

"Tail" Coverage

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Subrecipient and 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 this Agreement for Subrecipient, and 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 Ride Connection'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 this Agreement with respect to Subrecipient and the sub agreement with respect to the subcontractor.

Notwithstanding the foregoing 24-month requirement, if the Subrecipient or 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 Subrecipient or subcontractor may request and Ride Connection may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Ride Connection approval is granted, the Subrecipient or subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

Notice of Cancellation or Change

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).

Certificate(s) of Insurance

Subrecipient shall submit to Ride Connection a certificate(s) of insurance for all required insurance before the commencement of performance of services. The certificate(s) or an attached endorsement must specify:

- i. All entities and individuals who are endorsed on the policy as Additional Insured and
- ii. For insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

November 4, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18945 with Ride Connection, Inc. to Provide \$85,349 in HB
2017 Funding for Dedicated Medical Rides Provided by Social Services and
Transportation Reaching People; No County General Funds are Required

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People to provide Dedicated Dialysis Rides to assist older and disabled county residents in meeting their transportation needs to receive dialysis treatment.
Dollar Amount and Fiscal Impact	The total agreement is \$85,349. This agreement is funded through the HB 2017 Statewide Transportation Improvement Funds being passed through Ride Connection
Funding Source	Statewide Transportation Improvement Funds (STIF). No required match. No County general funds are involved.
Duration	Effective July 1, 2021 and terminates on June 30, 2022
Previous Board Action	
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.
Counsel Review	County Counsel reviewed and approved the agreement on 9/30/21 KR
Procurement Review	1. Was this time processed through Procurement? No In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S #10397

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services requests approval of Agreement #18945 with Ride Connection, Inc. This agreement passes through STIF funding to be specifically used for dedicated medical rides provided by the Social Services Transportation Reaching People (TRP) program. This agreement provides continuation funding for the portion of the rides that are provided inside the TriMet District to areas that have been designated high equity needs area by the TriMet HD2017 Transit Advisory Committee. This project helps riders to remain independent in meeting their medical treatment needs for as long as possible.

The TRP program provides rides in either a lift equipped mini-buses or mini-vans driven by paid staff as well as with volunteer drivers providing rides in their own vehicles. TRP provides transportation to dialysis clinics located throughout the county and in the greater Portland-metro area in these vehicles. When possible, riders with a similar destination and arrival times ride together to increase program efficiencies. Generally, transportation is provided weekdays between 8:00 am and 5:00pm.

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. The maximum funding for this agreement is \$85,349. The term of the agreement is July 1, 2021 to June 30, 2022. County Council reviewed and approved this agreement on September 30, 2021. No County General Funds are involved. No matching funds are needed. This agreement provides the first year of the two-year grant funding that was awarded during the January 2021 application cycle.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that the Board Chair, or her designee, to sign on behalf of Clackamas County.

Respectfully submitted,



Rodney A. Cook, Director
Health Housing & Human Services

**SERVICES AGREEMENT #18945
BETWEEN**

**Ride Connection, Inc. and Clackamas County, by and through its Health, Housing and
Human Services Department Social Services Division**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division ("Subrecipient")

DEFINITIONS:

As used in this Agreement, which includes all Exhibits:

1. "Americans with Disabilities Act" ("ADA") means section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008.
2. "Capital Asset" means real property or tangible items purchased or leased with STIF moneys, including without limitation vehicles and structures, with a purchase price of \$5,000 or more and a useful life of at least one year.
3. "Commission" means the Oregon Transportation Commission ("OTC") established under ORS 184.612.
4. "Fiscal Year" means the annual period which begins on July 1 and ends on June 30.
5. "Low-Income Household" means a household the total income of which does not exceed 200% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) for the 48 Contiguous States and the District of Columbia.
6. "Project" means a public transportation improvement activity or group of activities that is (i) eligible for STIF moneys; (ii) included in a STIF Plan adopted by the Commission; and (iii) funded by this Agreement.
7. "Project Manager(s)" means the individuals identified in Section 12 of this Agreement who are authorized by Ride Connection and Subrecipient respectively to send and receive communications regarding this Agreement.
8. "Public Transportation Services" means any form of passenger transportation by car, bus, or other conveyance, either publicly or privately owned, which provides service to the general public (not including charter, sightseeing, or exclusive school bus service) on a regular and continuing basis. Such transportation may be for purposes such as health care, shopping, education, employment, public services, personal business, or recreation.

9. “Public Transportation Service Provider” (“PTSP”) means a Qualified Entity or a city, county, Special District, Intergovernmental Entity or any other political subdivision or municipal or Public Corporation that provides Public Transportation Services.
10. “Qualified Entity” means, a county in which no part of a Mass Transit District or Transportation District exists, a Mass Transit District, a Transportation District or an Indian Tribe.
11. “Recipient” means a Qualified Entity or Public Transportation Service Provider that has a STIF Plan approved by the Commission or enters into an Agreement directly with ODOT to receive STIF Formula Funds.
12. “Representation Letter” means a letter prepared by a Subrecipient’s external auditors and sign by Subrecipient’s senior management that attests to the accuracy of the statements that the Subrecipient has submitted to the auditors for their analysis.
13. “Satisfactory Continuing Control” means the legal assurance that a Capital Asset will remain available to be used for its originally authorized purpose throughout its useful life or until disposition.
14. “STIF” or “Statewide Transportation Improvement Fund” means the fund established under ORS 184.751.
15. “STIF Formula Fund” means up to 90 percent of the Statewide Transportation Improvement funds to be disbursed to Qualified Entities conditioned upon the Commission’s approval of a STIF Plan, pursuant to ORS 184.758(1)(a).
16. “STIF Formula Fund Cycle” means the time period between Fiscal Years 2019 through the end of Fiscal Year 2021 (June 30, 2021) that is programmed in the STIF Plan.
17. “STIF Plan” means a public transportation improvement plan that is submitted to the Oregon Department of Transportation for review and approved by the Commission in order to receive a share of the STIF Formula Fund.

RECITALS:

1. ORS 184.751 establishes the Statewide Transportation Improvement Fund, which appropriates funds to the Oregon Department of Transportation to finance investments and improvements in public transportation services.
2. The STIF Formula Fund is intended to improve Public Transportation Services for current and potential future Oregon transit users by distributing moneys to Qualified Entities. STIF Formula Funds are not intended to supplant local funding sources to maintain existing services.
3. The Commission has approved TriMet’s multi-year Plan for use of STIF Formula Funds through the end of Fiscal Year 2021. TriMet is a Recipient of STIF Formula Funds as it is authorized to receive STIF Formula Funds directly from the Oregon Department of Transportation. TriMet’s STIF Plan consists of numerous Projects to provide Public Transportation Services in TriMet’s area of responsibility based on anticipated STIF Formula Funds.

4. Subrecipient is authorized to receive STIF Formula Funds and provide Public Transportation Services in TriMet's Area of Responsibility as defined by OAR 732-040-0005(5).
5. TriMet's STIF Plan anticipates sufficient future STIF Formula Funds for Subrecipient for a Project or Projects that provide Public Transportation Services as specified in this Agreement.
6. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of accomplishing the Project(s).
7. Pursuant to ORS Chapter 184 and OAR Chapter 732, Divisions 40 and 42, TriMet and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STIF Formula Funds to Subrecipient in order for Subrecipient to complete one or more projects specified in the approved FY2022-23 STIF Plan. **Maximum amount of Grant funds shall not exceed \$85,349. These funds shall be used solely for the Project(s) and not be used for any other purpose.**

RECITALS:

1. TriMet has entered into a Public Transportation Services Contract with Oregon Department of Transportation, acting by and through its Oregon Department of Transportation ("ODOT") Contract ("ODOT Contract").
2. Ride Connection has entered into a contract with TriMet (the "TriMet Contract"). Under the TriMet Contract, Ride Connection will perform delegated functions in furtherance of TriMet's obligations under the ODOT Contract. Specifically, Ride Connection will act as an integration contractor to provide Public Transportation Services in the State of Oregon.
3. Ride Connection wishes to enter into subcontracting agreements with qualified transportation providers for the provision of Public Transportation Services, as more fully set forth in the Statement of Work, attached to Exhibit A (the "Services") in compliance with the terms of the TriMet Contract.
4. Subrecipient wishes to provide the Services under the terms and conditions of this Agreement.

The parties therefore agree as follows:

AGREEMENT:

1. Term

This Agreement shall be in effect from **7/1/2021** through **6/30/2022**, unless the Agreement is terminated earlier as provided in this Agreement.

2. General

- A. Subrecipient agrees to comply with and use the STIF Formula funds in accordance with the terms of this Agreement including the terms and conditions of ORS 184.751 through 184.766, the provisions of OAR Chapter 732 Divisions 40 and 42, as may be amended,

TriMet's Approved FY2022-2023 STIF Plan, and any ODOT guidance documents pertaining to the Statewide Transportation Improvement Funds program, 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 Ride Connection regarding disbursement of STIF 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 and the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).

Subrecipient shall not be relieved of any responsibility for 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 184.751 through 184.766 and the provisions of OAR Chapter 732, Divisions 40 and 42, as may be amended, and the terms of this Agreement. Where provided in this Agreement, Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound as provided in this Agreement and exhibits thereto.

- 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.
- 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.
- 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 in 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 Workplace Agreement** - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

3. **Audit Requirements/Financial Management Procedure**

A. STIF 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 184.751 through 184.766 and OAR Chapter 732, parts 40 and 42, 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 STIF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall account for STIF Formula Funds separately. Any interest accrued must be added to the moneys and must be reported to Ride Connection at the end of the Fiscal Year in which it was earned.

- 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 Secretary of the State of Oregon, and the Comptroller General of the United States, or any of their authorized representatives, upon reasonable notice, access to all data and records relating to STIF Formula Funds received or disbursed and to inspect the STIF Plans and Projects financed with STIF Formula Funds including, but not limited to, the financial records, physical premises, and Capital Assets used to deliver public transportation services, 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. Subrecipient shall ensure that its agreements or contracts with subcontractors or vendors include provisions which permit TriMet, ODOT, the Secretary of State of Oregon, or their authorized representatives, access to data and records held by the Subrecipient or vendor as described in this Section.
- E. 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.

4. Reporting Requirements

- A. In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than the **20th** day 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.
- B. 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, if match is required and expenses.
 - A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.
- C. 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.
- D. Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.
- E. In addition to any other reporting required by this Agreement or by law, Subrecipient shall submit the following electronic documentation to Ride Connection:
 - The Subrecipient's adopted annual budget for the upcoming Fiscal Year must be submitted no later than 30 days after adoption. A subcontractor is not required to submit its organization's annual budget.
 - The results of any relevant financial audits of the Subrecipient or any subcontractor, as required by a local, state or federal oversight agency for the purposes of statewide reporting including, but not limited to any other report concerning the financial and administrative activities of Subrecipient as required by law that affects the ability of Subrecipient or a subcontractor to perform the functions or programs funded by this Agreement.
- F. Results of audits described in this Section must be submitted to Ride Connection no later than 15 days after receipt of the final results. A copy of information submitted under this Section must be sent to Ride Connection no later than 15 days after submittal to the requesting agency.

5. 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 or compliance review findings relating to the Subrecipient's performance. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STIF funding requirements hereunder by

Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet 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. .

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.

6. 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 STIF 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.

Subrecipient will include the terms of this Section 6 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

7. Insurance

Contractor must maintain insurance as set forth in Exhibit F.

8. Independent Contractor/Indemnification

A. **General Indemnity.** To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Subrecipient agrees to indemnify and defend Ride Connection, the State of Oregon, and their respective officers, shareholders, members, directors, employees, and agents (the "Indemnitees") and hold them harmless from, for, and against any and all claims, loss, damages, liability, costs, expenses (including), judgments, and obligations), directly or indirectly arising out of or related to the Services or Contractor's performance (including nonperformance and omissions) under this Agreement. Indemnifiable events include but are not limited to:

- a. Unauthorized disclosure of confidential records or protected information, including without limitation records and information protected by the Health Insurance Portability and Accountability Act and the federal regulations implementing the

Act (collectively referred to as "HIPAA"), 42 CFR Part 2, ORS 646A.600 through 646A.628, or OAR 943-014-0400 through 943-014-0465;

- b. Breach or nonfulfillment of any representation, warranty, or covenant set forth in this Agreement;
 - c. Any negligent, wrongful, or culpable act or omission of Contractor in connection with the performance of the Services and its other obligations under this Agreement;
 - d. Any bodily injury or death of any person, damage to real or tangible personal property, or infliction of distress, harassment, or discrimination caused by any acts or omissions of Contractor;
 - e. Any claim related to or arising from Subrecipient's employment or engagement of its agents, Drivers, or other personnel, and the conditions of that employment or engagement; or
 - f. Any failure by Contractor to comply with any Legal Requirements in the performance of the Services or its other obligations under this Agreement.
- B. **Subrecipient Responsibility.** Ride Connection's acceptance of any Subrecipient insurance certificate required under this Agreement does not relieve Subrecipient, or anyone for whose acts Subrecipient is responsible, of liability under this Agreement. Subrecipient's obligations under this Section 8 will survive termination or expiration of this Agreement.
- C. Subrecipient will include the terms of this Section 8 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

9. Limitation of Liability

- A. Ride Connection will not under any circumstances be responsible for any direct, indirect, incidental, special, exemplary, punitive, treble, statutory, or consequential damages or losses (including but not limited to loss of revenue, profit, or use or cost of capital) arising out of or related in any way to this Agreement, the transactions contemplated in this Agreement, or actions or inactions of Ride Connection that arise or relate to Ride Connection's performance under this Agreement, whether or not the possibility of such damages has been disclosed to Ride Connection in advance or could have been reasonably foreseen by Ride Connection.
- B. The parties expressly understand and agree that Ride Connection's overall liability is limited and that under no circumstances will Ride Connection's liability in connection to this Agreement exceed the total payments made by Ride Connection to Subrecipient over the preceding 12 months.

10. Suspension

Ride Connection, at its sole discretion, may suspend this Agreement at any time and for any length of time pending investigation of any concerns about Subrecipient's provision of the Services or compliance under this Agreement, or for any other reasons identified in this Agreement. Ride Connection may reinstate Subrecipient to provide the Services once Ride Connection determines, in its sole discretion, that Subrecipient is following, or will follow, the

terms and conditions of this Agreement or that concerns about Subrecipient's provision of the Services are resolved to Ride Connection's satisfaction.

11. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment purchased with STIF Formula funds 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.

Subrecipient will include the terms of this Section 11 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

12. 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 **\$85,349**.

C. Subrecipient shall document eligible use of STIF funds in accordance with this Agreement.

D. All invoices shall be submitted electronically to Ride Connection Partner Reporting at partnerreporting@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.

13. Communications

All notices and other communications concerning this Agreement must bear the number assigned to this Agreement by Ride Connection. Notices and other communications may be

delivered personally, by e-mail, by fax, or by regular, certified, or registered mail, unless a specific method of delivery is required under this Agreement, to the parties' respective Project Managers as indicated below:

Ride Connection:	Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division:
John Whitman 9955 NE Glisan St. Portland, OR 97220	Kristina Babcock 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.

14. Default, Remedies, and Termination

- A. **Default.** Subrecipient is in default under this Agreement if Ride Connection provides a written notice of default under any of the following circumstances or under any other provision of this Agreement granting a specific right of termination, unless the default is cured, as described in this Agreement:
- a. Subrecipient institutes or has instituted against it insolvency, receivership, or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - b. Subrecipient fails to ensure that no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) occurs without thirty (30) days prior written notice from Subrecipient of its insurer, which will be made to Ride Connection;
 - c. Subrecipient commits any breach of this Agreement, fails to perform the Services required under this Agreement within the time specified in this Agreement or any extension thereof, or so fails to pursue the Services as to endanger Subrecipient's performance under this Agreement in accordance with its terms, and such breach or failure is not cured within seven (7) days of receipt of Ride Connection's written notice, or such longer period as Ride Connection may specify in such written notice;
 - d. Subrecipient fails to meet the applicable requirements of 1932, 1903(m) or 1905(t) of the Social Security Act;
 - e. Subrecipient knowingly has a director, officer, partner or agent with beneficial ownership of five percent (5%) or more of Subrecipient's equity, or has an employment, consulting or other subcontract agreement for the provision of items and services that are significant and material to Subrecipient's obligations under this Agreement, as specified in 42 CFR §438.610, concerning whom:
 - i. Any license or certificate required by law or regulation to be held by such person to provide Services required by this Agreement is for any reason

denied, revoked, or not renewed;

- ii. Such person is suspended debarred or otherwise excluded from participating in procurement activities under Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order; or
- iii. Is convicted of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, or XX of the Social Security Act or related laws (or entered a plea of nolo contendere).

f. If Ride Connection, TriMet, or the State of Oregon determines that the health or welfare of the public is in jeopardy if this Agreement continues

B. Remedies for Default. In the event Subrecipient is in default of this Agreement, Ride Connection may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including but not limited to:

- a. Termination of this Agreement;
- b. Withholding of all sums due for Services that Subrecipient has failed to deliver within any scheduled completion dates or has failed to perform service as requested;
- c. Recoupment or withholding of valid overpayments.

These remedies are cumulative to the extent remedies are not inconsistent or duplicative, and Ride Connection may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

C. For Convenience.

- a. Except as otherwise set forth below, this Agreement may be terminated for Ride Connection's convenience upon 30 days' notice in writing, delivered by certified mail or in person.
- b. At its sole discretion and without liability to Subrecipient, Ride Connection may terminate this Agreement:
 - i. Upon receipt of written notice of termination to Subrecipient, if ODOT fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow TriMet or Ride Connection, in the exercise of its discretion, to continue to make payments under this Agreement;
 - ii. Upon receipt of written notice of termination to Subrecipient that ODOT's purchase or continued use of the Services or under the ODOT Contract is prohibited or that ODOT is prohibited from paying for the same; or
 - iii. Notwithstanding any claim Subrecipient may have under this Agreement, upon receipt of written notice of termination to Subrecipient if Ride Connection reasonably determines that continuation of the Agreement

poses a threat to the health, safety, or welfare of any Customer.

- D. **Immediate Termination for Cause.** Notwithstanding anything to the contrary in this Agreement, this Agreement will automatically terminate for cause on the date that Subrecipient (1) has been terminated from ODOT or is subject to exclusion for any lawful conviction by a court for which the Subrecipient could be excluded under 42 CFR §1001.101 and 42 CFR §455.3(b).
- E. **Payment upon Termination.** Upon Ride Connection's termination of this Agreement for convenience or cause, or upon Subrecipient's termination as described in this Agreement, Subrecipient has 15 days from the date of notification in which to submit and verify data for all unpaid Services. If timely submitted and verified, Subrecipient will be compensated for all the Services performed in accordance with this Agreement up to the effective termination date, minus any offsets by Ride Connection for overpayments or any other costs or damages suffered by Ride Connection.
- F. **Nonwaiver of Suspension/Termination Rights.** Ride Connection's failure to suspend or terminate Subrecipient for any violation of this Agreement will in no way waive, limit, or abrogate Ride Connection's right in its sole discretion to suspend or terminate Subrecipient for any other violations, including past violations. Similarly, Ride Connection's limited degree or duration of a suspension or termination of Subrecipient for a past violation of this Agreement will in no way waive, limit, or abrogate the degree or duration of suspension or termination that Ride Connection in its sole discretion may issue for any other violation, including past violations. Upon termination of this Agreement, Ride Connection may withhold payment of any outstanding claims pending financial audit.
- G. **Contractor Termination.** Contractor may terminate this Agreement upon 30 calendar days' written notice to Ride Connection.

15. Assignment/Subcontracts

- A. 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.
- B. 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.

16. 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 of 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. Notice must 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 calendar days of the date of notice. Within ten days after delivery of the initial notice, the executives of both parties will 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 under this Paragraph shall be confidential and shall be treated as compromise and settlement negotiations for purposes of law and rules of evidence. Time requirements in this Agreement may be modified upon the parties' mutual written consent.

- B. **Mediation.** If the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims must then be submitted to mediation within ten 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 is to be held in Portland, Oregon. This agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement is specifically enforceable under the prevailing law of any court having jurisdiction.
- C. **Litigation.** If the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution by bringing a claim, suit, action, or proceeding (collectively, the "claim") solely and exclusively within the Circuit Court of Multnomah County; provided, however, if a claim must be brought in a federal forum, then it will be conducted solely and exclusively within the United States District Court for the District of Oregon, Portland Division. The parties will submit to the personal jurisdiction of the above courts, accordingly.

Costs and Award. The prevailing party in any litigation is eligible for the award of all dispute resolution costs and expenses.

17. Claims, Notice

- A. **Notice Period** - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five 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. However, Contractor's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

18. Confidentiality

Subrecipient must comply, and require its employees and all other persons performing services for Subrecipient related to this Agreement to comply, with the following confidentiality provisions:

- A. **General.** Except as otherwise set forth in paragraphs below, Subrecipient must treat all information obtained by or through its performance under this Agreement as confidential information ("Confidential Information") and may not disclose it to any other person or use the Confidential Information in any manner except as necessary to properly discharge its obligations under this Agreement. But Subrecipient may disclose Confidential Information, after seven days' notice to Ride Connection, if disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator order. Subrecipient may also disclose Confidential Information to its employees, consultants, subcontractors and their employees, and others who need to know the content of the Confidential Information solely and exclusively for provision of the Services under this Agreement and who agree to maintain the confidentiality of the Confidential Information. If more stringent confidentiality requirements are imposed with relation to Confidential Information under the Legal Requirements, however, Subrecipient must comply with the more stringent standards.
- B. **Customer Information.** Except as required by other terms of this Agreement, all information obtained by Subrecipient about individuals they serve must be treated as Confidential Information and may not be divulged without the written consent of the individual or their legal guardian. Nothing prohibits the disclosure of information in summary, statistical, or other form, as long as it does not identify particular individuals and is otherwise permitted under this Agreement.
- C. **Media Disclosure.** Subrecipient may not provide information to the media regarding any individuals served under this Agreement without first consulting with and receiving approval from Ride Connection. Subrecipient must immediately notify Ride Connection when media contact occurs. Ride Connection will assist Subrecipient with an appropriate follow-up response for the media.

19. Certificate of Oregon Tax Law Compliance

By execution of this contract, Subrecipient certifies under penalty of perjury as provided in ORS 305.385(6) that it is, to the best of its knowledge, not in violation of any Oregon tax law. For purposes of this certification, "Oregon Tax Laws" are ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Elderly Rental Assistance Program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

20. 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.

21. Waiver

No waiver or other consent under this Agreement will bind either party unless it is in writing and signed by the party to be bound. The waiver or consent will 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 will not constitute a waiver by that party of that or any other provision.

22. Severability

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

23. Remedies Cumulative

The remedies exercisable by Ride Connection under this Agreement are cumulative and will in no way affect any other remedy available under the law to Ride Connection.

24. Merger Clause

This Agreement constitutes the entire agreement between the parties and no waiver, consent, modification, or change of terms of this Agreement will bind either party unless it is in writing and signed by both parties. Such a waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement regarding the parties' agreement. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

25. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions of this Agreement shall survive and continue to be in full force and effect: 2C (Audit); 8 (Indemnification); 18 (Confidential Information); 16 (Dispute Resolution); 20 Governing Law, 25(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

26. Agreement Documents

This Agreement consists of this Agreement, together with the following exhibits and exhibit attachments, which are incorporated by this reference. Subrecipient agrees to comply with all of the applicable requirements described in the exhibits and to ensure that all exhibits requiring signatures are executed by the appropriate parties and returned to Ride Connection.

- 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

27. Entire Agreement/Authority

- A. 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.
- B. 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.
- C. This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- D. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

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.

**Clackamas County, by and through its
Health, Housing and Human Services
Department Social Services Division**

Signature

Julie Wilcke Pilmer
Printed Name

Chief Executive Officer
Title

Date

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

Signing on Behalf of the Board:

By: _____
Tootie Smith, Chair

Approved to Form:

By: _____
County Counsel

Dated: _____

EXHIBIT A

Clackamas County Social Services

Contract No. 18945

SCOPE OF WORK

July 1, 2021

Project Title: In-District Dedicated Non-Emergency Medical Demand Response & Operating Assistance

Funding Source Definitions and Restrictions

Project STIF Funds Total for FY22: \$85,349

The goods and/or services to be provided by Clackamas County Social Services include, but are not limited to the following:

A. Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other Transportation providers Ride Connection contracts with to provide transportation services (“Service Partners”) in the network to meet the demand for service in a cost-effective manner.

B. Coordinate Customer Information, Referral, and Trip Scheduling Activities with the Ride Connection Service Center:

Service partners, who utilize the Ride Connection Service Center to coordinate trips, recognize that this service is currently being funded by dollars outside of this contract. Service Partners agree to work with Ride Connection to investigate opportunities and create solutions to recoup costs accrued for the service performed. Not currently applicable to the Clackamas County programs.

C. Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

D. Provide Shared Capacity Trips:

With increased coordination among service partners, opportunities arise for providers to serve customers who reside in, or have trips originating or ending in areas outside the defined Service Area specified in this contract. Such activity is encouraged to reduce deadhead time on longer distance trips and maximize available capacity. STF Formula funds can be used to cover the costs associated with Shared Capacity Trips. If service boundaries need to be adjusted, partners will be asked to participate in the planning and decision making necessary to align service boundaries with need.

E. Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.

EXHIBIT A

Clackamas County Social Services

Contract No. 18945

- F. Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.
- G. Participate with Ride Connection, TriMet and other partners in the development of local, regional and agency specific service plans. Help recruit customers to actively participate in planning processes and service design.
- H. Increase coordination between Ride Connection, other services partners and TriMet to increase transportation options for older adults and people with disabilities. Share information on customers, trips, and destinations with Ride Connection, TriMet, and other partners and jointly plan new services or service changes.
- I. Coordinate outreach activities with Ride Connection. Perform marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.
- J. Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.
- K. Establish transportation options, for older adults or people with disabilities, in the community at large that encourage group trips to common community destinations such as shopping, recreation, senior centers, and nutrition sites.
- L. Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- M. Provide Ride Connection with back up documentation for billing line items upon request.
- N. Orient drivers to the agency's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- O. Attend regular coordination and training meetings to be conducted by Ride Connection.
- P. Allow TriMet, ODOT, or Ride Connection representatives to contact a random sample of clients for monitoring and service verification purposes. Clients will be contacted by mail or phone. Agencies will be given a copy of the questionnaire in advance of mailing.
- Q. Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- R. Implement Ride Connection's client donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- S. Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- T. Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.

EXHIBIT A

Clackamas County Social Services

Contract No. 18945

- U. Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.
- V. Provide service throughout the contract term.

Project Description:

The Clackamas County dedicated non-emergency medical program provides medical appointment rides for older adults and people with disabilities who have limited transportation access. These riders are not on Medicaid services and have limited access to transportation for medical treatment. Services are door-to-door and are operated by paid drivers using wheelchair accessible vans and buses. Volunteers are also utilized as drivers and receive training on transporting patients. Volunteers are reimbursed mileage when providing their own vehicle. Taxis are utilized on a limited basis and only when a TRP driver/vehicle, paid or volunteer, isn't available. Service is door to door.

Transportation is provided Monday through Friday. Riders simply call the TRP to schedule rides. Information about the service is regularly distributed to Community Partners & Medical centers.

Project Funding:

Category			Total Project Cost
	FY22 Amount	FY23 Amount	
Planning:			
Operating:	\$85,349	\$87,909	\$173,258
Capital:			
Administrative:	0	0	0
Other (describe):			
Total:	\$85,349	\$87,909	\$173,258

EXHIBIT A

Clackamas County Social Services

Contract No. 18945

Project Funding Sources:

Funding Source	FY22 Amount	FY23 Amount	Total Amount
Source 1: STF/STIF/5310 Funds Requested	\$85,349	\$87,909	\$173,258
Source 2: STF/STIF Ride Conn. Pass-Through	\$587,149	\$604,762	\$1,191,911
Source 3: STF County Consortium	\$33,527	\$34,532	\$68,059
Source 4: 5310 County Consortium	\$38,973	\$38,973	\$77,946
Source 5: STIF County Consortium	\$43,900	\$45,217	\$89,117
Source 6: OAA Title III-B	\$150,000	\$150,000	\$300,000
Source 7: Medicaid for Waivered Non-Medical Transportation	\$33,450	\$33,450	\$66,900
Source 8: In District (TriMet)	\$206,669	\$206,669	\$413,338
Source 9: Sr. Ctr. Agency Other	\$25,000	\$25,000	\$50,000
Source 10: Rider Donations	\$20,000	\$20,500	\$40,500
Total:	\$1,224,017	\$1,247,012	\$2,471,029

Project Measurables:

Measurable	FY22:	FY23:	Total
One way Rides	N/A	N/A	N/A
Senior/Person w/ Disability One way Rides	3,300	3,500	6,800
Total paid driver hours	1,100	1,150	2,250
Total volunteer driver hours (increase in hours over FY18 baseline)	2,190	2,250	4,440
Cost per trip	26.01	25.12	25.57
# of individuals served	400	425	825
Vehicle Hours	N/A	N/A	N/A
Vehicle Miles	43,500	43,700	87,200

EXHIBIT B

Clackamas County Social Services
Agreement #18945

SPECIFIC AGREEMENT PROVISIONS

Subrecipient shall comply with the provisions as set forth in this Exhibit. Where provided in Exhibit B, Subrecipient shall require each of its subrecipients or subcontractors to comply with the provisions as set forth in this Exhibit.

1. **Representations and Warranties of Subrecipient.** Subrecipient represents and warrants to Ride Connection as follows:
 - A. **Organization and Authority.** Subrecipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the STIF Formula Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subrecipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.
 - B. **Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
 - C. **No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to sub agreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
 - D. **No Debarment.** Neither Subrecipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Subrecipient agrees to notify Ride Connection immediately if it is debarred, suspended, or otherwise excluded from this federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.
 - E. **Policies and Procedures.** Subrecipient represents and warrants that it has all of the policies and procedures in place to ensure compliance with OAR 732, Divisions 40 and 42, and to achieve the goals and outcomes specified in the Agreement, including but not limited to program and project management, financial management, operations management, procurement, use and maintenance of equipment, records retention, compliance with state and federal civil rights laws, compliance with the Americans with Disabilities Act (ADA),

EXHIBIT B

Clackamas County Social Services
Agreement #18945

charter and school bus, and safety and asset management.

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

2. Records Maintenance and Access; Audit.

- A. **Retention of Records.** Subrecipient shall retain and keep and require its subrecipients and subcontractors to retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the STIF Formula Funds, or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the expiration date of this Agreement. If there are unresolved audit questions at the end of the six-year period, Subrecipient, its subrecipients and subcontractors shall retain the records until the questions are resolved.
- B. **Expense Records. Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall create and maintain all expense records in accordance with generally accepted accounting principles and in sufficient detail to permit Ride Connection to verify how the funds were expended.
- C. **Audit Requirements.** To the fullest extent permitted by law, Subrecipient shall save, protect and hold harmless Ride Connection from the cost of any audits or special investigations performed with respect to the STIF Formula Funds expended under this Agreement as a result of Subrecipient's acts. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this Agreement. This section does not apply to regular audit and compliance reviews that are conducted pursuant to this Agreement.

3. Subrecipient Sub agreement and Procurement

- A. **Sub agreements.** Subrecipient may not enter into agreements with contractors or subcontractors (collectively, "sub agreements") for performance of the Project unless prior approval has been obtained in writing.
 - i. All sub agreements must be in writing executed by Subrecipient and must incorporate and pass through all of the applicable requirements and Exhibits of this Agreement to the other party or parties to the sub agreement(s). Use of a sub agreement does not relieve Subrecipient of its responsibilities under this Agreement. Subrecipient agrees to provide Ride Connection with a copy of any signed sub agreement upon request by Ride Connection. Any substantial breach of a term or condition of a sub agreement relating to funds covered by this Agreement must be reported by Subrecipient to Ride Connection within ten (10) days of its being discovered.
- B. **Subrecipient's subagreement(s) shall require the other party to such subagreement(s) to indemnify, defend, save and hold harmless Ride Connection, Clackamas County, TriMet, the State of Oregon, and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including reasonable attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's sub agreement or any of such party's officers, agents, employees or subcontractors ("Claims"). The sub agreement**

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shall specifically state that it is the specific intention that Ride Connection shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of Ride Connection, be indemnified by the other party to Subrecipient's sub agreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subcontractors"), nor any attorney engaged by Subrecipient's Subcontractor(s), shall defend any claim in the name of TriMet nor purport to act as legal representative of TriMet without the prior written consent of TriMet. TriMet may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's Subcontractor is prohibited from defending TriMet or that Subrecipient's Subcontractor is not adequately defending TriMet's interests, or that an important governmental principle is at issue or that it is in the best interests of TriMet to do so. TriMet reserves all rights to pursue claims it may have against Subrecipient's Subcontractor if TriMet elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its sub agreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit F to this Agreement.

- C. **Procurements.** Subrecipient will make purchases of any equipment, materials, or services for the Project in compliance with all applicable procurement laws and policies.

4. Termination

- A. **Termination by Ride Connection.** Ride Connection may terminate or suspend this Agreement, in whole or part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection in such written notice, under any of the following conditions, but not limited to those conditions:
- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. Ride Connection fails to receive funding, appropriations, limitations or other expense authority sufficient to allow Ride Connection, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if Ride Connection determines to terminate or suspend for its own convenience; or
 - iii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expense of funds; or
 - v. 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.
- B. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to Ride Connection, or at such later date as may be established by Subrecipient in such written notice, if:

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- i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
 - ii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- C. **Effect of Termination.** The expiration or termination of this Agreement or any Project, for any reason, shall not release Subrecipient from any obligation or liability to Ride Connection, any requirement or obligation that:
- i. Has already accrued hereunder;
 - ii. Comes into effect due to the expiration or termination of the Agreement; or
 - iii. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement or any Project as provided in this Section, Subrecipient shall promptly identify all unexpended funds and return all unexpended funds to Ride Connection. Unexpended funds are those funds received by Subrecipient under this Agreement that (i) have not been spent or expended to pay the costs or expenses of the Project or Projects; and (ii) are not required to pay costs or expenses of the terminated Project(s) that will become due and payable as a result of the termination of the Project(s).

Subrecipient's identification and calculation of unexpended funds in this Section is Subject to the requirements of this Agreement.

5. General Provisions

- A. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against Ride Connection or Subrecipient with respect to which the other party may have liability, the notified party must promptly notify the other party in writing of the Third Party Claim and deliver to the other party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a party of the notice and copies required in this paragraph and meaningful opportunity for the party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which Ride Connection is jointly liable with Subrecipient (or would be if joined in the Third Party Claim), Ride Connection 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 Subrecipient in such proportion as is appropriate to reflect the relative fault of Ride Connection on the one hand and of the Subrecipient 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 Ride Connection on the one hand and of Subrecipient 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. Ride Connection's contribution amount in any instance is

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capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if Ride Connection had sole liability in the proceeding.

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

- B. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America, Ride Connection or any other party, organization or individual.
- C. **No Third Party Beneficiaries.** Ride Connection and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- D. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to Subrecipient's Project Manager or Ride Connection's Project Manager at the address or number set forth in Section **13 Communications** of this Agreement, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given three days after the date of mailing
- E. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Ride Connection and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah

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County in the State of Oregon. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.

- F. **Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its contractor(s) and subcontractor(s) complies with these requirements. Subrecipient shall include in any subcontracts to perform services pursuant to this Agreement a provision requiring a subcontractor to comply with this Subsection F, and that failure to do so is a material breach of the subcontract with Subrecipient.
- G. **Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of Ride Connection. Subrecipient 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 has no right or authority to incur or create any obligation for or legally bind Ride Connection in any way. Ride Connection cannot and will not control the means or manner by which Subrecipient performs the Project, except as specifically set forth in this Agreement. Subrecipient is responsible for determining the appropriate means and manner of performing the Project. Subrecipient acknowledges and agrees that Subrecipient, its officers, directors, employees, subcontractors or volunteers are not an "officer," "employee," or "agent" of Ride Connection, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither Subrecipient, nor its directors, officers, employees, subcontractors, or volunteers shall 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.

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Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)

Provider and Provider’s Subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at <https://www.transit.dot.gov/grantee-resources/certifications-and-assurances/fy2021-annual-list-certifications-and-assurances>. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Provider must submit to Ride Connection on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing the form available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>, completing the form, and sending it to Ride Connection.

Provider shall comply with the following provisions and require in its subagreements that the subcontractors comply with each of the following provisions as if the subcontractors were Provider:

Provider agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at <http://fta.dot.gov/documents/21-Master.pdf>. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and three grant Funds being disbursed to Provider under this Agreement:

1. Provider shall comply with Title VI of the Civil Rights Act of 1964 and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Provider shall exclude no person on the grounds of race, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Provider will report to Ride Connection on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Provider shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.

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3. Provider shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Provider shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Provider's DBE program, if applicable, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Ride Connection of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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NONDISCRIMINATION CERTIFICATE

Subrecipient certifies compliance with the following nondiscrimination requirements:

Nondiscrimination

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Subrecipient assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient assures that it will submit the required information pertaining to its compliance with these provisions.
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any Subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for

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which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
- (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

Subrecipient acknowledges that it is subject to the requirements of FTA Circular 4702.1A "*Title VI and Title VI-Dependent Guidelines for FTA Recipients*" as a Subrecipient of federal funds under this Agreement. Further, Subrecipient shall provide Title VI compliance information and measures as may be determined by Ride Connection pursuant to the Circular.

Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Subrecipient assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Subrecipient assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

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Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the 20th of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to the Service Data Specialist:

Fax (503) 528-1755

partner_reporting@rideconnection.org

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INSURANCE REQUIREMENTS

General

Subrecipient shall obtain and provide, and require in its first tier sub agreements with entities that are not units of local government as defined in ORS 190.003, if any, that the subcontractor obtain and provide the same insurance applicable to Subrecipient for subcontractor's performance under is sub agreement:

- i. Insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance of this Agreement and of any sub agreement commences, and
- ii. Maintain the insurance in full force throughout the duration of this Agreement and sub agreement. Proof of sufficient self-insurance shall satisfy this requirement.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Ride Connection. Subrecipient shall not commence work under this Agreement, and shall not authorize work to begin under a sub agreement until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements in its sub agreements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the sub agreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a sub agreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a sub agreement in which the Subrecipient is a Party.

Subrecipient shall comply with any requirements of Ride Connection with respect to Subrecipient's compliance with these insurance requirements, including but not limited to Ride Connection issued stop work orders (or the equivalent) until the insurance is in full force, or terminating the Contract as permitted by this Contract, or pursuing legal action to enforce the insurance requirements.

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. Prior to commencement of work under this Agreement, Subrecipient shall furnish to Ride Connection a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements 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.

Subrecipient, as well as all of its subcontractors 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:

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Types and Amounts

- I. **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).

The employer's liability limit shall not be less than \$500,000 each accident for bodily injury by an accident and \$500,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.

- II. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to Ride Connection. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

Insurance policy shall include Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.

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

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).

Additional Insured

The Commercial General Liability Insurance and Automobile Liability insurance must include State and Ride Connection, and their respective officers, employees and agents as Additional Insureds but only with respect to the Subrecipient's activities to be performed under the Agreement and, with respect to subcontractors, activities to be performed under their sub agreements. Coverage must be primary and non-contributory with any other insurance and self-insurance.

The insurance required under this Paragraph shall include Ride Connection, TriMet, 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.

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"Tail" Coverage

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Subrecipient and 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 this Agreement for Subrecipient, and 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 Ride Connection'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 this Agreement with respect to Subrecipient and the sub agreement with respect to the subcontractor.

Notwithstanding the foregoing 24-month requirement, if the Subrecipient or 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 Subrecipient or subcontractor may request and Ride Connection may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Ride Connection approval is granted, the Subrecipient or subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

Notice of Cancellation or Change

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).

Certificate(s) of Insurance

Subrecipient shall submit to Ride Connection a certificate(s) of insurance for all required insurance before the commencement of performance of services. The certificate(s) or an attached endorsement must specify:

- i. All entities and individuals who are endorsed on the policy as Additional Insured and
- ii. For insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

November 4, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement 171559-0 with The State of Oregon, Department of Human Services, Aging and People with Disabilities Division for COVID Pandemic Response for Clackamas County Residents. Maximum Agreement Amount is \$55,842
No County General Funds

Purpose/Outcomes	To provide assessment and support for persons age 60 and over impacted by COVID pandemic in Clackamas County
Dollar Amount and Fiscal Impact	The total agreement is for \$55,842 Funded by Federal OAA Funds
Funding Source	Federal Older American Act funds. No match is required.
Duration	Effective July 1, 2021 and terminates on September 30,2022
Previous Board Action	Funding was approved on 7-9-20 by BCC as Amendment #1 to Agreement #106453 with Oregon DHS.
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.
Counsel Review	1. Date of Counsel review: 10/11/2021 2. Initials of County Counsel performing review: AN
Procurement Review	1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is an Intergovernmental Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S#10402

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Intergovernmental Grant Agreement #171559-0 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Services and Supports to provide COVID Pandemic Response for Clackamas County residents. This agreement provides grant funding for the Social Services Division to provide assessment and support for persons over 60 who have been impacted by the COVID pandemic. This program focuses on providing technology access to minimize the negative impacts of isolation during this time when senior services are curtailed.

Social Services Division is the designated Area Agency on Aging for the Clackamas Planning and Service area designated by the State of Oregon, Department of Human Services, Aging and People with Disabilities Division, Community Services and Supports. This agreement reflects funds awarded to the County for COVID pandemic services and was delayed due to State and Federal budget processes. The agreement was reviewed and approved by County Council on October 11, 2021.

No match is required and no County General Funds are used to support these services.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that Tootie Smith, Board Chair; or her designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

Mary Rumbaugh

Rodney A. Cook, Director
Health Housing & Human Services



Grant Agreement Number 171559

**STATE OF OREGON
INTERGOVERNMENTAL GRANT AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS,” and

**Clackamas County
d/b/a
Clackamas County Social Services Division CCSS
DBA name: (if applicable)
Contact: Brenda Durbin
PO Box 2950, 2051 Kaen Road,
Oregon City, OR 97045
Phone:(503)-655-8640
Fax:(503)-655-8889
Email:brendadur@clackamas.us**

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

The Program to be supported under this Agreement relates principally to the ODHS’

**Aging and People with Disabilities
Community Services and Supports
500 Summer Street NE, E-12
Salem, OR 97301
Agreement Administrator: Ann McQueen or delegate
Telephone: (503) 930-7293
E-mail address: ann.e.mcqueen@dhs.oha.state.or.us**

1. **Effective Date and Duration.** Agreement termination or expiration shall not extinguish or prejudice ODHS' right to enforce this Agreement with respect to any default by Recipient that has not been cured. This Agreement shall become effective on **July 1, 2021** regardless of when signed and, when required, approved by Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **September 30, 2022**. Agreement termination or expiration shall not extinguish or prejudice DHS' right to enforce this Agreement with respect to any default by Recipient that has not been cured.

2. **Agreement Documents.**

a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Program Description
- (2) Exhibit A, Part 2: Disbursement and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Federal Terms and Conditions

There are no other Agreement documents unless specifically referenced and incorporated in this Agreement.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits D, B, A, and C.

3. **Grant Disbursement Generally.** The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$55,842.00**. ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A.

4. **Contractor or Subrecipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:

Recipient is a subrecipient Recipient is a contractor Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.048

5. Recipient Data and Certification.

a. Recipient Information. Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Recipient Name (exactly as filed with the IRS): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: () _____ Facsimile: () _____

Recipient Proof of Insurance. Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

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

- (1) Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Recipient further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient;
- (2) The information shown in this Section 5a. "Recipient Information", is Recipient's true, accurate and correct information;
- (3) To the best of the undersigned's knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) Recipient and Recipient's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of

Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;

- (5) Recipient is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/SAM>;
- (6) Recipient is not subject to backup withholding because:
 - (a) Recipient is exempt from backup withholding;
 - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- (7) Recipient's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Recipient is required to provide ODHS with the new FEIN or SSN within 10 days.

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

6. **Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

Clackamas County

By:

Authorized Signature

Printed Name

Title

Date

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

By:

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

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

Department of Justice

Date

EXHIBIT A
Part 1
Program Description

The Agreement is to support Grant Activities that have been carried out by Recipient specifically related to all Activities that are specifically related to mitigation, support and treatment Activities related to Rapid Assessment Processes for COVID19 Pandemic Response.

1. Grant Activities to be provided through this Grant Agreement include Rapid Assessment Process COVID-19 Pandemic Response through existing Recipient Programs that will specifically focus on this Assessment Process COVID19 Pandemic Response.

a. The specific Grant Activities for Assessment services described in this section provide for a focused response to COVID-19 Pandemic with the coordination of No Wrong Door and Aging and Disability Resource Connection (ADRC) services. Grant Program Activities to be Carried out as follows:

1. Conduct a Rapid Assessment of ADRC workforce, population, and services specific to COVID-19 response, to be based on guidance provided by the Administration for Community Living (ACL) and the Community Services and Supports Unit (CSSU). The rapid assessment should be completed and submitted via SurveyMonkey no later than final date for Grant Activities as stated in Section 1 of this Grant Agreement.
2. Use Rapid Assessment results to prioritize the use of Agreement funds to conduct response activities from the list of COVID-19 Potential Response Activities below, to be carried out based on the ODHS approved budget and project plan for the Grant period stated in Section 1.
3. Track Agreement expenditures based on guidance provided by ACL and the CSSU. Information and referral, options counseling, and care transitions activities should be recorded in GetCare according to established ADRC standards;
4. Track and report on completed tasks and consumers served throughout Agreement period per requirements established by ACL.
5. Submit CSSU required quarterly progress reports and final report via survermonkey link provided by CSSU.
6. Submit semi-annual reports and final report per requirements established by Administration for Community Living (ACL).
7. Submit invoice quarterly using template provided. (Attachment 1)

b. Rapid Assessment Process Guidance:

Per ACL guidance, Agency Rapid Assessment Process may include the use of existing data or completing additional information gathering to assess some of the following:

1. Assessment of current workloads or capacity and challenges as part of working remotely at the local level in providing ADRC services to individuals and families.

2. Assessment of the most pressing population needs, services that have been discontinued, or services where demand has increased dramatically due to COVID-19, and other areas where capacity is smaller than demand.
3. Assessment of existing waitlists, if any, and review data reported on types of referrals to identify any increases in types of services requested
4. Assessment of potential ways to improve data tracking and intake to specifically count COVID-19 related inquiries and referral types
5. Assessment of populations most at risk of COVID-19 who are seeking transitional support from hospital-to-home and nursing home-to-home to release additional pressure on hospitals and nursing homes;
6. Assessment of populations most at risk of social isolation and needed outreach plans; and
7. Assessment of existing data on people who are now homebound due to COVID-19 and develop an outreach plan to identify need.

c. COVID-19 Potential Response Activities

ADRC may use Agreement funds to conduct some or all of the following activities:

1. Virtual Management of ADRC access functions. Enhancement and infrastructure development of ADRC access functions, e-services to overcome access challenges resulting from COVID-19.
2. Mitigation of social isolation through proactive Information and Referral (I&R) and options counseling activities and follow-ups, including:
 - a) Increase I&R and options counseling phone processes by supporting phone and web-based capacity to respond to increased demands as a result of COVID-19;
 - b) Implement follow-up protocols with I&R staff and options counselors to ensure that services are activated and are responsive throughout COVID-19 crises;
 - c) Develop and implement social isolation screenings and protocols used by I&R specialists and options counselors.
 - d) Utilize and/or expand I&R and options counseling workforce to conduct social calls, text messaging or video chat to homebound individual.
 - e) Ensure statewide I&R access system is able to identify and collaborate with community partners able to provide essential services to meet critical needs of ADRC consumers. Some examples include coordination with local restaurants and/or online/mobile food order and delivery services and local transportation services to deliver meals, food and medications to older adults, people with disabilities and their caregivers.
3. Support technology needs of ADRC consumers by:
 - a) Collaborating with and providing referrals to the State Assistive

Technology Act program, Access Technologies Inc. for assistive technology assessments, technology devices, and training for older adults, people with disabilities, caregivers and clinicians to understand how to use telehealth technologies to provide and receive services and participate in technology strategies to increase social engagement and social connectedness while reducing social isolation.

- b) Collaborating with and providing referrals to the Public Utility Commission (PUC) to help consumers who qualify access their Telecommunications Devices Access Program (TDAP) and Lifeline Program.
- c) Providing consumers with a telecommunications device on loan and/or funding support for cellular or internet connectivity for consumers. Services provided by programs like the state AT program and the PUC should be explored prior to using funds for these activities. The most cost effective option that meets the consumer's needs should be selected. See additional guidance below.
 - 1. Collaborate with Longterm Care Ombudsman office to help address needs of consumers residing in longterm care facilities.
 - 2. Innovation of and Development of enhancements to ADRC services or service structures
 - 3. Marketing and outreach of ADRC services to support consumers affected by COVID-19
 - 4. For ADRCs with established evidence-based Coleman Care Transitions programs in place, funds could be used for the deployment of Care Transitions services for targeted populations most at risk of COVID-19 who are seeking transitional support from hospital-to-home and nursing home-to-home.
 - 5. COVID-19 vaccine access support activities, pre-approved by the CSSU.

e. **Guidance for Purchases under this Agreement:**

Purchase of technology/devices and providing technical assistance to consumers on the use of technology/devices.

- 1. ADRC should collaborate with existing programs like the state Assistive Technology (AT) program prior to using funds to purchase technology/devices, AT services, and/or consumer support for using technology and devices. If funds are used to purchase these items, ADRC should research multiple purchasing options including bulk purchasing through the Department of Human Services in order to secure the most cost-effective option. Additionally, policies and procedures governing the provision and usage of such technologies and devices should be developed and should consider issues such as whether they will be provided on loan, or permanently; the criteria for

provision; what type of assessment will be made to determine the conditions for provision and the frequency for reassessment; whether or not usage by individuals in the home who are younger than age 60 is a permissible use; how will Information Technology (IT) support be provided, at what frequency, and total hours provided per consumer; how will upgrades to software be provided; who is responsible if the device is broken, lost or stolen; will it be used only for the duration of the public health emergency and then retrieved; etc.

2. Purchase of cellular or internet access.

ADRC should collaborate with existing programs like the state AT program and the PUC prior to using funds to purchase these items. If funds are used to purchase these items, policies and procedures governing the provision and usage of cellular or internet access should be developed and should consider issues such as whether they will be provided on a fixed short term or longer basis; the criteria for provision; what type of assessment will be made to determine the conditions for provision and the frequency for reassessment; whether or not usage by individuals in the home who are younger than age 60 is a permissible use; how will IT support be provided; who is responsible if any limits on usage are exceeded; will it be provided only for the duration of the public health emergency; etc.

2. Desired outcomes

- a.** The Grant Activities to be carried out will provide maximum support for COVID19 Pandemic Response with positive outcomes to address the increasing outbreak of COVID19 through assessments and other interventions described in this Grant.
- b.** The Rapid Assessment Process COVID-19 Pandemic Response will provide relief and mitigation of the COVID19 affective ODHS clients and consumers that patriciate in these Grant activities.

3. Reporting Requirements

Grant Recipient Activities carried out will be provided in a standard format to ODHS Contract Administrator including specific reporting items and deadlines for reporting as agreed upon between the parties.

4. Performance expectations

Grant Recipient Activities shall be carried out through the existing Programs and Grant Activities provided by the Recipient focused to meet the outcomes described in Section 2. The Rapid Assessment Process COVID-19 Pandemic Response Grant Activities to be carried out through existing program operations. .

5. Grant milestones

Milestones related to Grant Recipient Activities are based on the term of this Grant Agreement in that all activities will have been completed by the dates described in Section 1 of this Agreement.

EXHIBIT A

Part 2 Disbursement and Financial Reporting

1. Expenditure of Grant Funds.

- a. Grant Recipient related expenditures will be paid by ODHS for only Rapid Assessment Process COVID-19 Pandemic Response Grant Activities that have been carried out by the Recipient.
- b. Grant Recipient will provide a report summary and invoice for all Grant Activities completed along with ODHS client consumers that have been supported through this Grant. ‘
- c. ODHS will pay to the Grant Recipient a maximum not-to-exceed amount as specified in Section 3. “Consideration” of this Agreement, to be paid to the Recipient in accordance with the reasonable necessary and allocable expenses incurred by Grant Recipient .

EXHIBIT A

Part 3 Special Provisions

1. **HIPAA Compliance.** As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. Recipient is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504.

Recipient shall be liable to ODHS for any and all costs incurred by ODHS, including, but not limited to, costs of issuing any notices required by HIPAA, HITECH or any other applicable law and damages to third parties as a result of Recipient's Breach of Unsecured Protected Health Information.

- a. **Consultation and Testing.** If Recipient reasonably believes that the Recipient's or ODHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Recipient shall promptly consult the ODHS Information Security Office. Recipient or ODHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the ODHS testing schedule.
- b. **Data Transactions Systems.** If Recipient intends to exchange electronic data transactions with ODHS or the Oregon Health Authority (OHA) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Recipient shall execute an Electronic Data Interchange (EDI) Trading Partner Agreement and shall comply with EDI Rules set forth in OAR 943-120-0110 through 943-120-0160.

2. **Major Disaster Declaration number DR4499OR Agreement Provisions.**

DHS is acquiring the services under this amended Agreement for the purpose of responding to the state of emergency declared by the Governor on Saturday, March 7, 2020 and pursuant to the Major Disaster Declaration number DR4499OR as a direct result of the COVID-19. DHS intends to request reimbursement from the federal government, including but not limited to FEMA and from the resources provided by the Families First Coronavirus Response Act, for the costs, and Recipient shall provide to DHS timely reports that provide enough detail to DHS' reasonable satisfaction, in order to obtain federal reimbursement.

This Agreement is subject to the additional federal terms and conditions located at:

<https://www.oregon.gov/das/Procurement/Documents/COVIDFederalProvisions.pdf> as may be applicable to this Agreement.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between ODHS or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Agreement.
2. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.
3. **Independent Parties.** The parties agree and acknowledge that their relationship is that of independent parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Grant Funds; Payments.**
 - a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that ODHS’ participation in this Agreement is contingent on ODHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to participate in this Agreement.
 - b. **Disbursement Method.** Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT), unless otherwise mutually agreed, and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other ODHS Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, Recipient must provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Recipient must maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. Recipient must provide this designation and information on a form

provided by ODHS. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any payment made using EFT procedures, Recipient will provide the changed information or designation to ODHS on an ODHS-approved form.

- 5. Recovery of Overpayments.** Recovery of Overpayments. If billings under this Agreement, or under any other Agreement between Recipient and ODHS, result in payments to Recipient to which Recipient is not entitled, ODHS, after giving to Recipient written notification and an opportunity to object, may withhold from payments due to Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 18 of this Agreement.
- 6. Reserved.**
- 7. Contribution.**

 - a.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against a 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.
 - b.** With respect to a Third Party Claim for which the State is jointly liable with the Recipient (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Recipient on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
 - c.** With respect to a Third Party Claim for which the Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), the Recipient shall

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

This Section shall survive expiration or termination of this Agreement.

- 8. Indemnification by Subcontractors.** Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims. This Section shall survive expiration or termination of this Agreement.
- 9. Recipient Default.** Recipient shall be in default under this Agreement upon the occurrence of any of the following events:

 - a.** Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
 - b.** Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by Recipient is untrue in any material respect when made;
 - c.** Recipient (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing

to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or

- d. A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (3) similar relief in respect to Recipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

10. ODHS Default. ODHS shall be in default under this Agreement upon the occurrence of any of the following events:

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

11. Termination.

a. Recipient Termination. Recipient may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to ODHS;
- (2) Upon 45 days advance written notice to ODHS, if Recipient does not obtain funding, appropriations and other expenditure authorizations from Recipient's governing body, federal, state or other sources sufficient to permit Recipient to satisfy its performance obligations under this Agreement, as determined by Recipient in the reasonable exercise of its administrative discretion;
- (3) Upon 30 days advance written notice to ODHS, if ODHS is in default under this Agreement and such default remains uncured at the end of said 30-day period or such longer period, if any, as Recipient may specify in the notice; or
- (4) Immediately upon written notice to ODHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that Recipient no longer has the authority to meet its obligations under this Agreement.

b. ODHS Termination. ODHS may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to Recipient;
- (2) Upon 45 days advance written notice to Recipient, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to Recipient or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
- (3) Immediately upon written notice to Recipient if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that ODHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 days advance written notice to Recipient, if Recipient is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as ODHS may specify in the notice;
- (5) Immediately upon written notice to Recipient, if any license or certificate required by law or regulation to be held by Recipient or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that Recipient or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or
- (6) Immediately upon written notice to Recipient, if ODHS determines that Recipient or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

12. **Effect of Termination.**

a. **Entire Agreement.**

- (1) Upon termination of this Agreement, ODHS shall have no further obligation to pay Recipient under this Agreement.
 - (2) Upon termination of this Agreement, Recipient shall have no further obligation to perform Work under this Agreement.
 - b. Obligations and Liabilities.** Notwithstanding Section 11.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.
- 13. Insurance.** All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.
- 14. Records Maintenance, Access.** Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that ODHS and the Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:
- a.** Six years following final payment and termination of this Agreement;
 - b.** The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
 - c.** Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.
- 15. Information Privacy/Security/Access.** If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to have access to or use of any ODHS computer system or other ODHS Information Asset for which ODHS imposes security requirements, and ODHS grants Recipient or its subcontractor(s) access to such ODHS Information Assets or Network and Information Systems, Recipient shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
- 16. Assignment of Agreement, Successors in Interest.**
- a.** Recipient shall not assign or transfer its interest in this Agreement without prior written consent of ODHS. Any such assignment or transfer, if approved, is

subject to such conditions and provisions required by ODHS. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in this Agreement.

- b.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.
- 17. Resolution of Disputes.** The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. This Section shall survive expiration or termination of this Agreement.
- 18. Subcontracts.** Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without ODHS' prior written consent. In addition to any other provisions ODHS may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that ODHS will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 15, 16, and 17 of this Exhibit B. ODHS' consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.
- 19. No Third Party Beneficiaries.** ODHS and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This Section shall survive expiration or termination of this Agreement.
- 20. Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.
- 21. Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to Recipient or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day if transmission was outside normal business hours of the Recipient. Notwithstanding

the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

ODHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

22. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
23. **Amendments; Waiver; Consent.** ODHS may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, approved by the Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Agreement.
24. **Force Majeure.** Neither ODHS nor Recipient shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of ODHS or Recipient, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODHS may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
25. **Merger Clause.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.
26. **Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

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EXHIBIT C

Subcontractor Insurance Requirements

1. SUBCONTRACTOR INSURANCE

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

TYPES AND AMOUNTS

2. WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

3. COMMERCIAL GENERAL LIABILITY:

Required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$4,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

4. AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Automobile Liability Insurance covering Contractor’s business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$4,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

5. PROFESSIONAL LIABILITY:

Required **Not required**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor’s subcontractors, agents, officers or employees . If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor and Subcontractors shall provide continuous claims made coverage as stated below.

6. EXCESS/UMBRELLA INSURANCE:

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

7. ADDITIONAL COVERAGE REQUIREMENTS:

Contractor’s insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

8. ADDITIONAL INSURED:

All liability insurance, except for Workers’ Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers,

employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

9. WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

10. CONTINUOUS CLAIMS MADE COVERAGE:

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and Agency's acceptance of all Services required under the Contract, or
- (ii) Agency or Contractor termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

11. CERTIFICATE(S) AND PROOF OF INSURANCE:

Local Government shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

12. NOTICE OF CHANGE OR CANCELLATION:

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

13. INSURANCE REQUIREMENT REVIEW:

Contractor agrees to periodic review of insurance requirements by Agency under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Agency.

14. STATE ACCEPTANCE:

All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit C.

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EXHIBIT D

Federal Terms and Conditions

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

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

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

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

- f.** No part of any federal funds paid to Recipient under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g.** The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h.** No part of any federal funds paid to Recipient under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- 6. Resource Conservation and Recovery.** Recipient shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
- 7. Audits.**
- a.** Recipient shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
 - b.** If Recipient expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, Recipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If Recipient expends less than \$750,000 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, “Records Maintenance, Access”.
- 8. Debarment and Suspension.** Recipient shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or

Nonprocurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

- 9. Pro-Children Act.** Recipient shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).
- 10. Medicaid Services.** Recipient shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. 1396 et. seq., including without limitation:
 - a.** Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b.** Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
 - c.** Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
 - d.** Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Recipient shall acknowledge Recipient’s understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e.** Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. 1396a(a)(68).
- 11. Agency-based Voter Registration.** If applicable, Recipient shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
- 12. Disclosures.**
 - a.** 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address

(including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b.** Recipient shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom the Recipient has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between the Recipient, and any wholly owned supplier or between the Recipient and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
- c.** 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- d.** As such, Recipient must disclose any person with a 5% or greater direct or indirect ownership interest in the Recipient whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.
- e.** Recipient shall make the disclosures required by this Section 12. to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

13. Federal Intellectual Property Rights Notice. The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed under this Agreement, may have certain rights as set forth in the federal requirements pertinent to

these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The Recipient agrees that it has been provided the following notice:

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

- 14. Federal Whistleblower Protection.** Recipient shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

ADRC COVID-19 Relief Grant Quarterly Invoice

A.

AAA/CIL: xxxx	Contract #: xxx
Quarterly: xxx	

B.

Quarterly Site Expenditures	Total Costs Per Category	Description
Staff Time	\$ -	ADRC COVID-19 relief grant activities
Items purchased for the consumer (details tab)	\$ -	
Contractor investments (details tab)	\$ -	
Number of consumers served	0	
Total	\$0.00	

C.

Total COVID Eligible Costs	\$0.00	FF available
----------------------------	--------	--------------

D.

All costs included in this invoice:

- comply with OMB Circular A-122 Cost Principles for Non-Profit Organizations.
- have not been claimed under other federal grants.
- include only actual expenditures.

E.

Certified by: Printed Name _____
Signature: _____
Date _____

F.

Certified by APD: Printed Name _____
Signature _____
Date _____

Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

**** CONCEPTION ****

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Lead Department & Fund: H3s/SSD - 240
Application for: Subrecipient Assistance Direct Assistance
Grant Renewal? Yes No
If renewal, complete sections 1, 2, & 4 only
If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Name of Funding Opportunity: State IGA - ADRC NWD

Funding Source: Federal State Local
Requestor Information (Name of staff person initiating form): Stefanie Reid-Danielson
Requestor Contact Information: 503-655-8330 or 503-320-8884 stefanierei@clackamas.us
Department Fiscal Representative: same
Program Name or Number (please specify): 05294 & 05296 - ADRC-No Wrong Door/ADRC Options Counseling
Brief Description of Project:

Funding to support Social Service Division's Aging & Disabilities Resource Center (ADRC) Unit to administer the No Wrong Door approach to providing access to public and private long term care services and support, including Person Centered Options Counseling. This service model links residents to resources and support to assist them in making informed Long Term Care decisions. This helps residents remain independent and involved in the community of their choosing as long as possible.

Name of Funding Agency: Oregon Department of Human Services/Adults & People w/Disabilities/Community Solutions & Supports Unit

Agency's Web Address for funding agency Guidelines and Contact Information:

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/Pages/index.aspx>

OR

Application Packet Attached: Yes No
Completed By: S. Reid-Danielson Date _____

**** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE ****

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application <input type="checkbox"/>	Non-Competing Application <input type="checkbox"/>	Other <input checked="" type="checkbox"/>	
CFDA(s), if applicable:	<u>N/A</u>	Funding Agency Award Notification Date:	<u>N/A</u>
Announcement Date:	<u>N/A</u>	Announcement/Opportunity #:	<u>N/A</u>
Grant Category/Title:	<u>Federal Medicaid & State Funds</u>	Max Award Value:	<u>\$285,387 estimated</u>
Allows Indirect/Rate:	<u>No. General Fund \$26,693</u>	Match Requirement:	<u>N/A</u>
Application Deadline:	<u>N/A</u>	Other Deadlines:	<u>N/A</u>
Award Start Date:	<u>07/01/2021</u>	Other Deadline Description:	<u>N/A</u>
Award End Date:	<u>06/30/2023</u>		
Completed By:	<u>S. Reid-Danielson</u>	Program Income Requirement:	<u>N/A</u>
Pre-Application Meeting Schedule:	<u>N/A</u>		

Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

These services link residents with resources to meet their individual needs. This helps them to remain independent and active in the community.

2. What, if any, are the community partners who might be better suited to perform this work?

3. What are the objectives of this funding opportunity? How will we meet these objectives?

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

Collaboration

1. List County departments that will collaborate on this award, if any.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

Kati Tilton

6/28/21

Kati Tilton

Digitally signed by Kati Tilton
Date: 2021.06.28 14:38:37 -07'00'

Name (Typed/Printed)

Date

Signature

**** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR ****

****ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Teresa Christopherson	6/28/21	Teresa D. Christopherson
Name (Typed/Printed)	Date	Signature

Digitally signed by Teresa D. Christopherson
Date: 2021.06.28 14:53:02 -07'00'

DEPARTMENT DIRECTOR (or designee, if applicable)		
Mary Rumbaugh for Rodney A Cook	July 27, 2021	Mary Rumbaugh
Name (Typed/Printed)	Date	Signature

Digitally signed by Mary Rumbaugh
Date: 2021.07.27 08:08:06 -07'00'

FINANCE ADMINISTRATION		
Elizabeth Comfort	7.27.2021	Elizabeth Comfort
Name (Typed/Printed)	Date	Signature

Digitally signed by Elizabeth Comfort
Date: 2021.07.27 14:28:41 -07'00'

EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

*(Required for all grant applications. If your grant is awarded, all grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

For applications less than \$150,000:

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

For applications greater than \$150,000 or which otherwise require BCC approval:

BCC Agenda item #:

Date:

OR

Policy Session Date:

County Administration Attestation

**County Administration: re-route to department contact when fully approved.
Department: keep original with your grant file.**

November 4, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Local Subrecipient Grant Agreement Amendment #3 with
Todos Juntos for continuation of Kindergarten Partnership Innovation Services in Clackamas
County Agreement is increased by \$225,711 funded through Oregon Early Learning Division
No County Funds are involved

Purpose/Outcome	Todos Juntos will continue to provide culturally-responsive Kindergarten Partnership Innovation (KPI) services that increase Kindergarten readiness for pre-kindergarten children and families living in Rural Clackamas County. <ul style="list-style-type: none"> • Jump Start – pre-Kindergarten programming that supports academic/behavioral growth for children entering kindergarten and connects families to schools • Family Engagement – family nights to provide activities for child and parent engagement • Kindergarten Readiness – workshops for children and parents supporting ready kindergarten practices intended to build early literacy, critical thinking, and social/emotional skills • Playgroups – offered in partnership with local libraries to support social and cognitive skill development
Dollar Amount and Fiscal Impact	Amendment #3 adds \$225,711 for a maximum value of \$512,052 and extends the end date to June 30, 2023. No County General Fund involved
Funding Source	State of Oregon, Dept of Education through its Early Learning Division - Kindergarten Innovation Partnership Grant
Duration	This amendment is effective October 1, 2021 for services ending June 30, 2023.
Previous Board Action/Review	Previous Board Action: 6/24/21 Board Issues Date: 11/2/21
Strategic Plan Alignment	1. Ensure safe, healthy and secure communities
Counsel Review	This Subrecipient Grant amendment has been reviewed and approved by County Counsel on 10/7/21, KR
Procurement Review	Was the item processed through Procurement? No. Subrecipient grant amendment, selected through a competitive process
Contact Person	Adam Freer 971-533-4929
Contract No.	CFCC 9473

BACKGROUND:

The Children, Family & Community Connections Division of the Health, Housing and Human Services Department requests approval of a Local Subrecipient Grant Amendment #3 with Todos Juntos for the continuation of KPI services. Todos Juntos was selected through a competitive process in 2019 to provide culturally responsive evidence-based Early Learning programming and workshops to children and families to support a smooth transition into Kindergarten and strengthen connections and collaborations between the early care and education sector systems.

This Local Subrecipient Grant Agreement Amend #3 is effective upon signature by all parties for services starting on October 1, 2021 and terminating on June 30, 2023. This Amendment #3 adds \$225,711 for a maximum value of \$512,052.

RECOMMENDATION:

Staff recommends the Board approval of this Agreement and authorization for Tootie Smith, Board Chair, to sign on behalf of Clackamas County.

Respectfully submitted,



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

Local Subrecipient Grant Amendment (FY 21-22)
H3S – Children, Family & Community Connections Division

<u>Local Recipient Agreement Number: 9473</u>	<u>Board Order Number: 062421</u>
<u>Department/Division: H3S-CFCC</u>	<u>Amendment No. 3</u>
<u>Local Recipient: Todos Juntos</u>	<u>Amendment Requested By: Adam Freer</u>
Changes: <input type="checkbox"/> Scope of Service <input checked="" type="checkbox"/> Agreement Time	<input checked="" type="checkbox"/> Agreement Budget <input type="checkbox"/> Other:

Justification for Amendment:

This Amendment #3 is entered into between Todos Juntos (“SUBRECIPIENT”) and Clackamas County (“COUNTY”) and shall become part of that Subrecipient Grant Agreement (“Agreement”) entered into between both parties on October 29, 2019.

Todos Juntos, a local non-profit organization, was selected through a competitive process in 2019 to provide community and school partnerships and innovations that result in measurable increases in readiness for pre-kindergarten children aged 3-5 years living in Rural Clackamas County.

This Amendment #3 adds to the maximum compensation and extends the end date for continuity of program service delivery to provide culturally responsive evidence-based Early Learning programming and workshops to children and parents to support a smooth transition into Kindergarten and strengthen connections and collaborations between the early care and education sector systems.

Maximum compensation is increased by \$225,711 for a revised maximum of \$512,052. Amendment #3 becomes effective when it is fully executed for services beginning October 1, 2021 and terminating on June 30, 2023.

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:

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 Amendment may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the project incurred no earlier than July 1, 2021 and not later than September 30, 2021, 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.

TO READ:

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 **Amendment #3** may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the project incurred no earlier than **October 1, 2021 and not later than June 30, 2023**, 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.

AMEND:

2. **Grant Funds.** COUNTY's funding for this Agreement is the State of Oregon acting by and through its Department of Education, Early Learning Division issued to COUNTY. The maximum, not to exceed, grant amount that COUNTY will pay on this agreement is \$286,341.

TO READ:

2. **Grant Funds.** COUNTY's funding for this Agreement is the State of Oregon acting by and through its Department of Education, Early Learning Division issued to COUNTY. The maximum, not to exceed, grant amount that COUNTY will pay on this agreement is **\$512,052.**

By June 30, 2023 120 unduplicated families will participate in weekly community based playgroups/story hours. Play groups may be offered virtually or in person.	85% of parents will report their child gained confidence in engaging with other children.	# of NEW parents attending playgroup								
		# of parents assessed								
		# of parents reporting gain of confidence for their child								
		% of parents reporting gain of confidence for their child								
By June 30, 2023 conduct 4 evening family activity engagement events, serving a minimum of 80 total parents in partnership with rural elementary schools. These may be facilitated in person or virtually.	85% of parents attending family engagement activities will report the skills gained at these events improved their relationship with their child, their child's teacher, or the school.	# of family engagement events held								
		# of parents attending								
		# of parents assessed								
		# of parents successful								
		% of parents successful								
Little Chippers										
By June 30 2023, 40 children and their parents/caregivers will participate in Six -90 min workshops supporting ready for kindergarten practices	85% of parents will have increased understanding of beneficial pre-kindergarten skills 85% of parents will learn and feel confident in new ways to support their child's social and academic development.	# of 90 min workshops offered (River Mill)								
		# of 90 min workshops offered (Sandy)								
		# of parents attending								
		# of parents assessed								
		# of parents with increase in understanding of skills								
		% successful								
		# of parents confident in supporting their child								
		% successful								
Bobcat Pack										
By June 30, 2023, 30 core youth will participate in twice weekly	KPI6/7A: 85% of core youth will show progress in meeting individual case plan goals as assessed by Coordinator and	Total # core youth served (Sandy)								
		Total # core youth assessed								

afterschool kindergarten support activities in partnership with Sandy Grade School. (Bobcat Pack)	relevant school staff and documented in client files KPI6/7B: 85% of core youth identified as needing to develop changes in pro-social skills will show positive improvement on age appropriate assessments. KPI6/7C: 75% of core youth in literacy programs will increase reading skills. KPI6/7D: 85% of core youth will show maintained or improving school attendance rates	Total # core youth successful in progress towards case goals								
		Total % core youth successful in progress towards case goals								
		Total # core youth successful in increased pro-social behaviors								
		Total % core youth successful in increased pro-social behaviors								
		Total # core youth successful in increased literacy skills								
		Total % core youth successful in increased literacy skills								
		Total % core youth successful in maintaining or increasing school attendance rate								
Timbers Club										
By June 30, 2023, 30 core youth will participate in twice weekly afterschool kindergarten support activities in partnership with River Mill Elementary School. (Timbers Club)	progress in meeting individual case plan goals as assessed by Coordinator and relevant school staff and documented in client files KPI6/7B: 85% of core youth identified as needing to develop changes in pro-social skills will show positive improvement on age appropriate assessments. KPI6/7C: 75% of core youth in literacy programs will increase reading skills. KPI6/7D: 85% of core youth will show maintained or improving school attendance rates	Total # core youth served (Estacada)								
		Total # core youth assessed								
		Total # core youth successful in progress towards case goals								
		Total % core youth successful in progress towards case goals								
		Total # core youth successful in increased pro-social behaviors								
		Total % core youth successful in increased pro-social behaviors								
		Total # core youth successful in increased literacy skills								
		Total % core youth successful in increased literacy skills								
Total % core youth successful in maintaining or increasing school attendance rate										

**Children, Family & Community Connections
 Early Learning Hub of Clackamas County
 Work Plan 2021-2023
 Comments and Narrative**

Please provide updates on key strategies and deliverables as well as any changes in sustainability planning and cross-sector partnerships. . Include program successes and current challenges. Note any strategies moving forward to alleviate those challenges. Please include in this narrative any professional development Ready Set Go staff may have participated in that was funded through this contract.

Reporting Period	Narrative
October – December 2021:	
January-March 2022:	
April-June 2022:	
July-Sept 2022:	
October – December 2022:	
January-March 2023:	
April-June 2023:	

Reporting Requirements

Monthly report, general ledger and reimbursement request

- No later than the 15th of every month
- Chelsea Hamilton (chamilton@clackamas.us), Stephanie Radford (sradford@clackamas.us)

Quarterly Report and Demographic Data Form & Project Testimonial

- Program reports are due by the 15th of the month following the close of each quarter.
- Final programming reporting for the contract must be completed by July 15, 2023.

Testimonial or story

Please provide two testimonials or stories related to your quality work with families for each site you provide services. Completed testimonial due by July 15, 2023 but may be submitted at any time. Your testimonial page serves as a platform to demonstrate how this project has facilitated innovative approaches for linking Early Learning with K-12 education. It is an opportunity to highlight your organization and the impact of your work in the community through this project. Testimonials will be presented to The Early Learning Hub Council as a part of the final report.

Creation and Distribution of Educational Materials and Resources

Please send all program marketing materials to chamilton@clackamas.us prior to community distribution. Please include the Early Learning Hub of Clackamas County logo on all materials developed for programs funded through this contract.

ADD:

Exhibit B: Budget Todos Juntos KPI

Exhibit B: BUDGET - KPI Amend 3		
Contractor:	Todos Juntos	
Address:	PO Box 645	
	Canby, OR 97013	
Contact Person:	Shawna Johnson	
Phone Number:	503.341.3381	
E-mail:	shawnaj@todos-juntos.net	
Contract Term:	October 1, 2021-June 30, 2023	
Contract #:	9473 Amend 3	
Budget Category	Approved Budget (10/1/21-6/30/23)	Match
Personnel		Not required on this Agreement
Early Childhood Program Director .22 fte	\$ 35,000.00	
Sandy Early Childhood Coordinator .89 fte	\$ 70,000.00	
Estacada Early Childhood Coordinator .80 fte	\$ 70,000.00	
Taxes & Fringe @ .11%	\$ 19,250.00	
Total Personnel	\$ 194,250.00	
Administration		
Administration	\$ 19,000.00	
Total Administration	\$ 19,000.00	
Program		
Materials, curriculum, Equipment & Supplies	\$ 8,186.00	
Insurance	\$ 1,275.00	
Mileage	\$ 3,000.00	
Total Program	\$ 12,461.00	
Total Budget	\$ 225,711.00	

ADD: Exhibit D-1 Todos Juntos Reimbursement Request

Exhibit D-1: KPI REIMBURSEMENT REQUEST				
Requests for reimbursement and supporting documentation are due monthly by the 15th of the month, including: <ul style="list-style-type: none"> • Request for Reimbursement with an authorized signature • General Ledger backup to support the requested amount • Monthly Activity Report (Exhibit D-2) showing numbers served and activities conducted during the month of request <i>(The Monthly Activity Report is NOT required on months when quarterly reports are due)</i> . 				
Contractor:	Todos Juntos - KPI Amend 3			
Address:	PO Box 645		Report Period:	
	Canby, OR 97013			
Contact Person:	Shawna Johnson			
Phone Number:	503.341.3381		Contract	9473 Amend 3
E-mail:	shawnaj@todos-juntos.net			
Contract Period:	October 1, 2021-June 30, 2023			
Budget Category	Approved Budget (10/1/21-6/30/23)	Current Draw Request	Previously Requested	Balance
Personnel				
Early Childhood Program Director .22 fte	\$ 35,000.00	\$ -	\$ -	\$ 35,000.00
Sandy Early Childhood Coordinator .89 fte	\$ 70,000.00	\$ -	\$ -	\$ 70,000.00
Estacada Early Childhood Coordinator .80 fte	\$ 70,000.00	\$ -	\$ -	\$ 70,000.00
Taxes & Fringe @ .11%	\$ 19,250.00	\$ -	\$ -	\$ 19,250.00
Total Personnel	\$ 194,250.00	\$ -	\$ -	\$ 194,250.00
Administration				
Administration (10% of personnel)	\$ 19,000.00	\$ -	\$ -	\$ 19,000.00
Total Administration	\$ 19,000.00	\$ -	\$ -	\$ 19,000.00
Program				
Materials, Curriculum & Supplies	\$ 8,186.00	\$ -	\$ -	\$ 8,186.00
Insurance	\$ 1,275.00	\$ -	\$ -	\$ 1,275.00
Mileage	\$ 3,000.00	\$ -	\$ -	\$ 3,000.00
Total Program	\$ 12,461.00	\$ -	\$ -	\$ 12,461.00
Total Grant Funds Requested	\$ 225,711.00	\$ -	\$ -	\$ 225,711.00
By signing this request, I verify that the information on this Funds Request and attachments is accurate, represents contracted services, and is true to the best of my knowledge. Clackamas County retains the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings that are pertinent to this Contract.				

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

AGENCY

Todos Juntos
PO Box 645
Canby, OR 97013

By: 
Eric Johnston, Director

Date: 10-7-21

CLACKAMAS COUNTY

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

Tootie Smith, Board Chair
Clackamas County

Date: _____