



AGENDA

Thursday, November 29, 2012 - 10:00 AM
Board of County Commissioners Business Meeting

Beginning Board Order No. 2012-110

I. CALL TO ORDER

- Roll Call
- Pledge of Allegiance
- Approval of Order of Agenda

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

1. Presentation of the Watershed Health Education Program (Carol Murdock, Water Environment Services)

III. DISCUSSION ITEMS *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

~NO DISCUSSION ITEMS SCHEDULED

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

A. Health, Housing & Human Services

- 2 1. Approval to Apply for HUD Continuum of Care Funding for homeless programs and services in Clackamas County - cd
- 3 2. Approval of an Amendment to the Intergovernmental between Clackamas County and City of Molalla for the Kennel Avenue Street Improvements Project - cd
- 4 3. Approval of a Renewal Intergovernmental Agreement with Oregon Housing and Community Services to Provide Rental Guarantees to Low-Income Clackamas County Residents through the Tenant Readiness Rent Guarantee Program - ss

B. Elected Officials

- 5 1. Approval of Previous Business Meeting Minutes – BCC
- 6 2. Approval to Enter into an Intergovernmental Agreement between Clackamas County Sheriff's Office and the State of Oregon Department of Transportation to participate in the Motor Carrier Safety Assistance Program - ccso

C Technology Services

1. Approval of an Intergovernmental Agreement between Clackamas County, Tri City Service District and Clackamas County Service District No. 1 for Fiber Optic Connections

D. Department of Emergency Management

1. Approval of Local Grant Agreements with Boring Water District, Clackamas River Water District, City of Happy Valley, City of Milwaukie, City of Wilsonville and Sunrise Water Authority for the FY 2010 Urban Areal Security Initiate Grant
2. Approval of the 2012 Clackamas County Wildfire Protection Plan and Updated Memorandum of Agreement

V. WATER ENVIRONMENT SERVICES

1. Approval of an Intergovernmental Agreement between Clackamas County, Tri City Service District and Clackamas County Service District No. 1 for Fiber Optic Connections
2. Approval and Acceptance of a Service Connection Mortgage in the North Clackamas Area for Clackamas County Service District No. 1

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

VII. COUNTY ADMINISTRATOR UPDATE

VIII. COMMISSIONERS COMMUNICATION



1

Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Michael S. Kuenzi, P.E.
Director

November 29, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

PRESENTATION OF THE WATERSHED HEALTH EDUCATION PROGRAM

Water Environment Services developed the Watershed Health Education Program to educate youth about protecting our local watersheds. This program makes it possible for North Clackamas School District high school science teachers and their students to get out of the classroom and into the field where they gain hands-on experience collecting data, making assessments, restoring streamside habitats, and studying what determines healthy rivers and streams. Students then share their knowledge with friends, family and the broader community through presentations, activities and scientific papers, making an even bigger impact on public health and the environment.

Carol Murdock will present a short video about the Watershed Health Education Program (3:43 minutes) and then our team of educators will introduce themselves and the 2-4 students who attend.

RECOMMENDATION

No recommendation at this time. Staff is providing this information to update the BCC on the benefits of the Watershed Health Education Program.

Sincerely,

A handwritten signature in black ink, appearing to be "MK", written over a horizontal line.

Michael Kuenzi
Director

For information on this issue or copies of attachments, please contact Trista Crase at 503-742-4566.

November 29, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval to Apply for HUD Continuum of Care Funding
for homeless programs and services in Clackamas County**

The Community Development Division of the Department of Health, Housing and Human Services requests authorization to re-apply for annual Continuum of Care (CoC) funding. HUD requires that Clackamas County maintains a Homeless Management Information System (HMIS) to collect data on all the homeless programs and services in Clackamas County. The CoC planning funds would support coordination of homeless services and meetings of the CoC Homeless Council. Community Development requests approval to apply for the following projects and funding amounts:

Clackamas County H3S-CD	Clackamas County CoC HMIS	\$30,548.00
Clackamas County H3S-CD	Clackamas County CoC HMIS 2	\$36,882.00
Clackamas County H3S-CD	HMIS 3	\$52,050.00
<u>Clackamas County H3S-CD</u>	<u>CoC Planning</u>	<u>\$20,924.00</u>

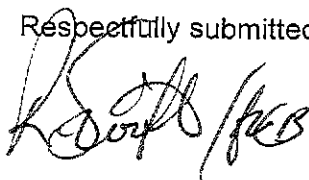
Total amount of possible funding: \$140, 404.00

No County General Fund dollars are involved.

Recommendation

We recommend that Cindy Becker be authorized to sign the HUD Continuum of Care annual renewal application and all related documents on behalf of the Board of County Commissioners.

Respectfully submitted,



Cindy Becker
Director

For more information on this issue or additional copies of attachments,
Please contact Mark Siros at (503) 650-5664

Healthy Families. Strong Communities.

November 29, 2012

Board of County Commissioners
Clackamas County, Oregon

Members of the Board:

Approval of an Amendment to the Intergovernmental between Clackamas County and City of Molalla for the Kennel Avenue Street Improvements Project

The Community Development Division (CD) of the Health, Housing and Human Services Department requests the approval of Intergovernmental (IGA) Amendment No. 1 with the City of Molalla for the Kennel Avenue Street Improvements Project.

The need for Amendment No.1 was not based on the original design for construction. The scope of design was increased by the City of Molalla and their engineer for the improvement of the project. The changes in scope would make for a more complete project. The additional improvements include removal of an old existing culvert from beneath Kennel Avenue that was not providing proper drainage for residents, and installation of a new variable size culvert on the opposite side of Kennel Avenue. Additional Community Development Block Grant (CDBG) funds were needed for the project or Molalla would have to cancel the entire project. The additional increase in funds is shown below:

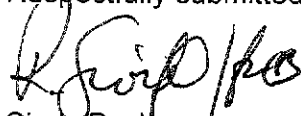
Original CDBG Budget.....	\$190,000.00
Additional CDBG Funds.....	\$ 50,000.00
New CDBG Total:.....	\$240,000.00

Molalla has agreed to provide \$65,000 in Match Funds for the project. Approval of this Amendment will have no impact on the County General Fund. County Council reviewed the Intergovernmental Agreement on March 10, 2011.

Recommendation:

We recommend approval of the attached IGA Amendment and that Cindy Becker be authorized to sign the document on behalf of the Board of County Commissioners. The Amendment increases the CD amount by 25%.

Respectfully submitted,


Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Steve Kelly/ Community Development at (503) 650-5665.

Healthy Families. Strong Communities.

**AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
BETWEEN**

**CLACKAMAS COUNTY DEPARTMENT OF HEALTH, HOUSING AND
HUMAN SERVICES COMMUNITY DEVELOPMENT DIVISION
AND
CITY OF MOLALLA**

H3S Contract #: CD-34-10/11

Board Order #: N/A

Amendment Requested by: Chuck Robbins Director, CD

Changes: Scope of Work Contract Budget
 Contract Time Other

Justification for Amendment No.1:

The City of Molalla and Community Development Division have determined there is a need for a budget increase in the Community Development Block Grant (CDBG) contribution for the Kennel Avenue Street Improvements Project.

The project budget needed to be increase for the removal of an old existing culvert from beneath Kennel Avenue that was not providing proper drainage for residents. A new variable size culvert was installed on the opposite side of Kennel Avenue with proper grading and drainage corrections. This was an additional cost to the project.

The current IGA funded amount is \$190,000. This Amendment will increase CDBG funds in the amount of \$50,000 dollars for the project. The City of Molalla had determined without the additional \$50,000, the project would be cancelled.

The New CDBG Budget will be \$240,000. The City has agreed to provide \$65,000 in Match Funds.

No County General funds are involved in this project.

TO AMEND

III. Budget & Financial

- A. The COUNTY will apply CDBG funds in the amount of \$190,000 to the PROJECT. 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.

TO READ


III. Budget & Financial

- A. The COUNTY will apply CDBG funds in the amount of \$240,000 to the PROJECT. 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.

THE CITY OF MOLALLA
920 Toliver Road
Molalla, OR 97038

CLACKAMAS COUNTY
Chair: Charlotte Lehan
Commissioner: Jim Bernard
Commissioner: Jamie Damon
Commissioner: Ann Lininger
Commissioner: Paul Savas

Signing on Behalf of the Board



Marc Howatt, Manager
Public Works

Cindy Becker, Director
Health, Housing & Human Services

11-15-12

Date

Date

November 29, 2012

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Renewal Intergovernmental Agreement with Oregon Housing and Community Services to Provide Rental Guarantees to Low-Income Clackamas County Residents through the Tenant Readiness Rent Guarantee Program

The Social Services Division of the Health, Housing and Human Services Department requests the approval of a Renewal Intergovernmental Agreement with Oregon Housing and Community Services to provide limited guarantees to low-income Clackamas County residents who are graduates of the Clackamas County Social Services (CCSS) Rent Well Program. Tenant Readiness Rent Guarantee Program allows up to \$20,000 to be expended on a reimbursement basis for unpaid rents and damages limited to \$1,000 per household that occur to landlords who have agreed to participate in the Rent Well program. The funds as presented by this agreement are important to the success of the program as they allow CCSS to offer this additional resource to landlords. It is noteworthy that during the life of the guarantee there have only been four claims. Rent Well clients who have been housed with the guarantee in place have been successful tenants.

This agreement was issued to Clackamas County Social Services Division on November 7, 2012. The commitment amount of the agreement is \$20,000. No County General Funds are involved. This agreement was reviewed and approved by County Counsel on 11/9/12. This agreement covers the period of July 1, 2012 through June 30, 2013 and becomes effective upon acceptance by all parties.

Recommendation:

We recommend the approval of this intergovernmental agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,



Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Brenda Durbin, # 503-655-8641

Healthy Families. Strong Communities.

**STATE OF OREGON
HOUSING AND COMMUNITY SERVICES DEPARTMENT**

**GRANT AGREEMENT #1679
*Rent Guarantee Program***

This Rent Guarantee Program Grant Agreement No. 1679 ("Agreement") is hereby entered into between the State of Oregon acting by and through its Housing and Community Services Department hereinafter referred to as "Agency", and Clackamas County, an Oregon local government, by and through its department of Health, Housing and Human Services, Social Services Division, hereinafter referred to as "Program Provider".

NOW THEREFORE, for good and sufficient consideration, including the terms and conditions herein, it is agreed by and between the parties hereto as follows:

1. Agreement Purpose

Certain low-income persons may find that past credit, criminal history or tenant performance history poses a significant impediment to securing present housing. Appropriate training of such persons in personal budgeting, tenant/landlord relationships and other relevant matters may assist them in becoming more attractive and successful tenants. Providing guarantees to prospective landlords may further induce landlords to offer housing to persons who have received such training, but who otherwise might not be deemed by landlords as acceptable tenants.

2. Definitions

When used in this Agreement, the following terms shall have the following meanings:

- a. "Eligible Participants" or "Participants" means individuals:
 - i. with a household income not greater than sixty percent of median family income;
 - ii. who have completed the Tenant Readiness Training within 18 months prior to the issuance of the Program;
 - iii. who have not exceeded a period of 12 consecutive months in the Program;
 - iv. who have had no Program claims filed.
- b. "Landlord" means owners or operators of any rental housing under this Agreement and Program guidelines to participate in the Program through the Program Provider.
- c. "Program Payments" means the payments by the Program Provider to approved landlords to cover such expenses as unpaid rent, costs to evict the tenant and allowable unit repair costs under the Program limits set forth in the Consideration Section 7 per Eligible Participant household for which the Program Provider may seek reimbursement from Agency.
- d. "Rent Guarantee Program" or "Program" means the issuance of guarantees to landlords for tenants successfully completing Tenant Readiness Training.
- e. "Tenant Readiness Training" means the curriculum of personal budgeting, tenant/landlord relationships and other relevant matters currently taught to Eligible Participants under the auspices of the Program Provider.

3. Term of Agreement

Unless terminated or extended, this Agreement covers the period **July 1, 2012 through June 30, 2013**. This Agreement shall become effective on the date this Agreement has been signed by every party and, when required, approved by the State of Oregon Department of Justice. The expiration of the term of this Agreement, including if this Agreement is terminated prior to the end of the above-described term, shall not terminate remedies available to Agency or to Program Provider hereunder.

4. Termination

- a. Either party may terminate this Agreement, without cause, upon 30 days written notice to the other party. Reasonable commitments made within the 30 day notice period for Program Payments will be eligible for reimbursement by Agency. Any Program Payments requested after the close of the 30 day notice are not eligible for reimbursement unless prior written approval from Agency has been obtained by the Program Provider. The Program Provider shall be entitled to reimbursement for appropriate Program Payments reasonably made or committed by approved contract pursuant to this section.
- b. Either party may terminate this Agreement immediately by written notice for cause or upon a material breach by the other party of one or more of the terms of this Agreement. Upon delivery of such notice of termination, no further Program Payments will be eligible for reimbursement. Events of cause may include:
 - 1) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that Agency is prohibited from paying for or lacks authority to pay for any Work performed under this Agreement or to pay for any such performance from the planned funding source(s);
 - 2) Funding, appropriations, limitations or expenditure authorization to expend funds is denied, suspended, reduced or eliminated;
 - 3) Any certification, license or certificate required by law to be held by Program Provider or others to provide the services required by this Agreement is for any reason denied, revoked, suspended, limited or not renewed;
- c. Notwithstanding the above subsections, termination of the Agreement shall not terminate any remedies available to the parties under this Agreement or at law, including but not limited to liability for damages sustained by virtue of any breach of this Agreement. Agency may withhold any remaining reimbursements to the Program Provider for the purpose of compensating damages and may use whatever portion of such funds are necessary to offset said damages when they are agreed upon by the parties or otherwise determined.

5. Reporting Requirements

- a. Program Provider shall maintain a Program Workbook in a format provided by Agency which contains the following information:
 - i. Participant last name and first name initial
 - ii. Monthly gross income
 - iii. Guarantee start date
 - iv. Head of household age
 - v. Head of household gender
 - vi. Size of household
 - vii. Total children in household
 - viii. If household rent is subsidized
 - ix. Number of veterans in household
 - x. Number of released offenders in household
 - xi. Guarantee end date
 - xii. If Participant completed the Program contract period
 - xiii. Any claim paid by Program Provider
 - xiv. Program Provider certification that:
 1. The above participants have completed and been certified in the Tenant Readiness Training;
 2. The residences for the above Participants have been screened for pre-existing condition;
 3. The individual records for the above participants are on file, including landlord and tenant communications; and
 4. The Participants meet the low-income guidelines required by the Program.

- b. Program Provider shall submit quarterly reports in the Workbook format to Agency within thirty (30) days after each calendar year quarter.
- c. Program Provider shall submit an Annual Report in the Workbook format to Agency no later than July 30th following the close of each fiscal year.

All reporting must be in a form and manner acceptable to the Agency.

6. Scope of Services

In accordance with these purposes and the terms of this Agreement, the Program Provider shall:

- a. Determine eligibility of Participants to participate in the Program.
- b. Use the Program to assist Participants in obtaining housing.
- c. Provide communication and outreach to Landlords to increase their willingness to participate in the Program.
- d. Enter into Program agreements with Landlords and process Program claims accordingly.
- e. Maintain a Workbook format of Participants, Landlords, and outcomes of involvement with the Program.
- f. Establish and adhere to Program guidelines in consultation with and as acceptable to Agency. Program guidelines must include limitations on income for qualification as an Eligible Participant, criteria for Training, the terms of any Agreement with Landlords under the Program, and other matters as deemed appropriate by the parties.
- g. Notify Agency of any significant changes to Training or Program guidelines.
- h. Timely remedy actions as required or permitted by Agency pursuant to this Agreement.

7. Consideration

Agency has agreed to guarantee funds to the Program Provider for its appropriate and approved Rent Guarantee Payment expenditures for up to 20 Eligible Participants, subject to the terms and conditions of this Agreement, from Rent Guarantee Funds up to the not-to-exceed amount of **TWENTY THOUSAND DOLLARS (\$20,000.00)**. Agency will guarantee a maximum not-to-exceed amount of up to \$1,000 per Eligible Participant. Allowable reimbursements may be made by Agency to Program Provider upon receipt and approval of invoices.

8. Timely Submission of Claims

Program Provider shall submit detailed invoicing to Agency no more than monthly for reimbursement of allowable expenditures which must include Landlord name, Participant name, complex name and address of property, itemized expenses, date Program was initiated for each Participant, and date of action resulting in the claim. Program Provider shall further retain and have available, but not submit to Agency, copies of Landlord/Participant agreements, copies of judgments, attorney invoicing or documentation, copies of cancelled checks paid to Landlord, or copies of Landlord/Participant move in/ move out forms.

Claims for incidents that occurred during the previous Rent Guarantee Program Agreement must be submitted to Agency no later than 60 days after the end of that previous contract to be considered for payment.

Should the Program Provider choose not to renew the Rent Guarantee Program Agreement, claims for incidents that occurred during the contract period must be submitted to Agency no later than 60 days after the end of the contract period to be considered for payment.

- a. Allowable expenses for reimbursement include, but are not limited to:
 - 1. Repairs or replacement of fixtures or structure beyond the normal wear and tear of Participant occupancy caused by Participant damages;
 - 2. Unpaid rent which may include up to one month's unpaid rent, and up to 30 day notice period if **tenant vacated the unit on or after the eleventh day of the tenant's monthly rental period;**
 - 3. Expenses related to removal of excessive debris left by Participant, including disposal fees;

4. Costs to evict Participant including court filing fees, attorney fees, and serving of notices, provided that Landlord does not also file a judgment against the Participant for such reimbursed fees.
 5. Damages by pets or service animals included on Participant's lease.
- b. Unallowable expenses for reimbursement include, but are not limited to:
1. Late fees on rent;
 2. Costs to change locks, except in the case where the door or door-jam is also damaged and must be replaced, or if the lock is for a common-use room or building; or
 3. Costs deemed to be due to normal wear and tear of the Participant occupancy.

9. Funding Appropriation

Funds specified in the Consideration section of this Agreement may include monies that have not yet been appropriated to Agency, but which Agency anticipates receiving for use in funding this Agreement. All disbursements of funds by Agency to Program Provider are contingent upon them being lawfully appropriated, allocated, and available to Agency.

10. Disallowance of Costs

Agency neither is responsible for nor shall it pay for any costs disallowed either upon request for reimbursement or as a result of any audit, review, or site visit or other disallowance action by Agency except for costs incurred by Program Provider solely due to the negligence of Agency, its employees, officers or agents. If a cost is disallowed by Agency after reimbursement has occurred, Program Provider shall, within thirty (30) days of notice of disallowance or such other date as may be required by Agency, either demonstrate to the satisfaction of Agency that such disallowance is in error or make repayment of such cost. Program Provider shall cooperate and shall cause its Landlords to cooperate with Agency and all appropriate investigative agencies and shall assist in recovering invalid payments.

11. Program Provider Owned/Managed Properties

Program Provider will not steer potential renters to its units. Program Provider agrees Participants are also free to enter into a rental agreement with other Landlords within the Program Provider's jurisdiction or Participants may freely choose to rent a unit owned or managed by the Program Provider.

Program Provider may choose to waive certain screening criteria when Participant is eligible for the Program. Any waiver of criteria will be applied consistently and in accordance with Fair Housing Laws as established by the U.S. Department of Housing and Urban Development.

12. Landlord Agreements

Program Provider may enter into any agreement with Landlords without prior written approval of Agency. Program Provider shall require and cause its Landlords to comply with all applicable provisions of this Agreement between Agency and Program Provider, each of which must be specifically incorporated into the Landlord agreements in a manner satisfactory to Agency. Agency reserves the right to request that any Landlord agreement be submitted to it for review and approval by Agency within 10 business days from the date of written notification.

Program Provider shall require and cause that all of its Landlord agreements related to this Agreement must include language specifying that such agreements are subject to termination upon such a directive to Program Provider by Agency and that Agency shall not be liable to any of the parties of that agreement or to other persons for directing that such agreement be terminated.

Program Provider shall have a written agreement with each Landlord that is listed in and consistent with the Program Provider's Statement of Work that identifies:

- a. The services or benefits that the Landlord must provide when delivering the Program;

- b. The laws and regulations with which the Landlord must comply under the terms of the agreement (including but not limited to program specific requirements such as eligibility criteria and matching obligations, public policy for protecting civil rights and the environment, written procedures for appeal by Participants of Landlords determinations, government-wide administrative mandates affecting the Landlords accounting and record keeping systems, and local laws imposed by Program Provider);
- c. The Program Provider's and Agency's monitoring rights and responsibilities and the methods used by Program Provider for monitoring;
- d. A provision to certify that the Landlord is an independent contractor and not an agent of Agency or of Program Provider;
- e. Program Participant eligibility not-to-exceed one year;
- f. An amount which may not exceed this Agreement's maximum guarantee per Participant
- g. Allowable and Unallowable expenses; and
- h. A non-revocable right to inspect the residences of any Participants upon reasonable notice.

13. Compliance with Applicable Law

Program Provider shall, and shall cause and require its Landlords to, comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement. Without limiting the generality of the foregoing, Program Provider expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) Title II of the Americans with Disabilities Act of 1990, as amended; (iv) Executive Orders: 11063, 11246, 12892, 12898, 13166, and 13217 as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) Architectural Barriers Act of 1968; (xi) Title IX of the Education Amendments Act of 1972; (xii) Section 109 of Title I of the Housing and Community Development Act of 1974; and (xiii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated.

14. Insurance and Workers Compensation

Program Provider shall, and shall cause and require its Landlords to, provide all necessary General Liability and Automotive insurance required by Oregon Law to perform services under this Agreement, and provide proof of coverage upon request of Agency.

Program Provider and all employers providing work, labor, or materials under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all of their subject workers. Out-of-state employers must provide Oregon worker's compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year or who otherwise constitute "subject workers" under Oregon law.

15. Program Provider Status

- a. Program Provider shall perform all Services under this Agreement as an independent contractor. Program Provider is not an officer, employee or agent of the State, as those terms are used in ORS 30.265, with respect to Services performed under this Agreement.
- b. Program Provider agrees that insurance coverage, whether purchased or by self-insurance, for Program Provider's agents, employees, officers and/or subcontractors is the sole responsibility of Program Provider.
- c. Program Provider certifies that it is not employed by or contracting with the federal government for the Services covered by this Agreement.

- d. Program Provider certifies to the best of its knowledge and belief that neither the Program Provider nor any of its principals, officers, directors or employees:
- 1) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 - 2) Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - 3) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in subsection (d)(2); and
 - 4) Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default.

16. Dual Payments

The Program Provider shall not be compensated for Program Payments made under this Agreement from any other department of the State of Oregon, nor from any other source, including the Federal government, unless such funds are used solely to increase the total services to be provided under this Agreement. Any additional funds received through or for activities arising under this Agreement shall immediately be reported to Agency.

17. Indemnity

The Program Provider shall indemnify, defend (consistent with ORS chapter 180) and hold harmless the State of Oregon, Agency, its officers, agents, employees and assigns from all claims, suits or actions of whatsoever nature resulting from or arising out of the activities or omissions of the Program Provider or its subcontractors, agents or employees under this Agreement. This indemnity provision shall not require the Program Provider to defend or indemnify the State against any action based solely on the alleged negligence of the State.

18. Expenditures Properly Supported

Expenditures and requests for Program funds shall be supported by Program Provider with properly executed payroll and time records, invoices, contracts, vouchers, orders, canceled checks and/or any other accounting documents pertaining in whole or in part to the Agreement (or in the case of Landlords, under their respective contracts with Program Provider) in accordance with generally accepted accounting principles, Oregon Administrative Rules and applicable federal requirements as specified herein. Agency may require such other information as it deems necessary or appropriate in its sole discretion.

19. Records Maintenance; Access

Program Provider shall, and shall cause and require its Landlords to, maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Program Provider shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Program Provider's performance. Program Provider acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to, and make copies of, such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Program Provider that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Program Provider shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, 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.

20. Monitoring; Remedies

Program Provider shall fully and timely cooperate with Agency in the performance of any and all monitoring and enforcement activities. Failure by Program Provider or any of its Landlords to comply with this requirement is sufficient cause for Agency to require special conditions and may be deemed by Agency as a failure by the Program Provider to perform its obligations under this Agreement.

If Agency determines that Program Provider has failed to comply with any part of this Agreement including but not limited to any applicable requirements or directives or violates the terms of its corrective action plan, Agency may, upon notice to Program Provider, impose any sanctions (including, but not limited to, withholding of funds, disallowance of costs, suspension of payments, recoupment of payment, or termination of this Agreement) permitted by the terms of this Agreement.

The rights and remedies of Agency provided in this section shall not be exclusive and are in addition to any other rights and remedies provided under this Agreement, or by law, or otherwise.

22. Governing Law; Venue; Consent to Jurisdiction

This Agreement shall be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency and Program Provider related to this Agreement shall be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the real property is located) or, if necessary, the United States District Court for the District of Oregon. In no event shall this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. PROGRAM PROVIDER, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

23. No Third Party Beneficiaries

Agency and Program Provider are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

24. Notices

Except as otherwise expressly provided in this Agreement, any communications between the parties or notices to be given shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Program Provider 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; provided however that any notice of termination shall be given by certified or registered mail, return receipt requested. Any communication or notice so addressed and mailed shall be deemed to be given 5 days after mailing. Any communication or notice delivered by facsimile or email shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against Agency, such facsimile transmission must be confirmed by telephone notice to Agency' primary contact. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

25. Confidentiality

Program Provider shall protect the confidentiality of all information concerning applicants for and recipients of services funded by this Agreement. It shall not release or disclose any such information except as necessary for the administration of the program(s), as authorized in writing by the applicant or recipient or as required by law. All records and files shall be appropriately secured to prevent access by unauthorized persons. Program Provider shall ensure that all its officers, employees and agents are aware of and comply with this confidentiality requirement.

26. Time is of the Essence

Time is of the essence in the performance of any and all obligations under this Agreement.

27. No Limitations on Actions of Agency in Exercise of Its Governmental Powers

Nothing in this Agreement is intended, nor shall it be construed, to in any way limit the actions of Agency in the exercise of its governmental powers. The exercise of its governmental powers by Agency shall not constitute a breach of this Agreement.

28. Captions

The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

29. 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.

30. Execution and Counterparts

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

31. Oregon False Claims Act

- a. Program Provider acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action or conduct by Program Provider pertaining to this Agreement that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Agreement, Program Provider certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement. In addition to other liabilities that may be applicable, Program Provider further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Program Provider.
- b. Without limiting the generality of the foregoing, Program Provider represents and warrants that:
 - 1) Program Provider's representations, certifications, and other undertakings in this Agreement are not False Claims Act Violations; and
 - 2) None of Program Provider's performance under this Agreement, including but not limited to any invoices, reports, or other deliverables in connection with its performance of this Agreement, will constitute False Claims Act Violations.
- c. For purposes of this Section 2.F., a "False Claims Act Violation" means a false claim as defined by ORS 180.750(2) or anything prohibited by ORS 180.755.
- d. Program Provider shall immediately report in writing, to Agency, any credible evidence that a principal, employee, agent, subcontractor, subgrantee, or other person has made a false claim or committed a prohibited act under the Oregon False Claims Act, or has committed a criminal or civil violation of laws pertaining to fraud, bribery, gratuity, conflict of interest, or similar misconduct in connection with this Agreement or any moneys paid under this Agreement.

- e. Program Provider understands and agrees that any remedy that may be available under the Oregon False Claims Act shall be in addition to any other remedy available to the State of Oregon or Agency under any other provision of law, or this Agreement.

32. Attorney Fees

In the event a lawsuit of any kind is instituted on behalf of Agency or the Program Provider with respect to this Agreement, or any right or claim related thereto, including but not limited to the collection of any payment due under this Agreement or to obtain performance of any kind under this Agreement, the prevailing party is, to the extent permitted by law, entitled to its reasonable attorney fees incurred before and during trial, on appeal, in arbitration, in bankruptcy, and in such other forum or proceeding appropriate thereto, together with such additional sums as the court or hearings officer may adjudge for reasonable costs and disbursements incurred therein. Reasonable attorney fees shall not exceed the rate charged to the Agency by its counsel.

33. Amendments

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

34. Merger Clause

This Agreement and attached exhibits 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 Agency 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.

35. CERTIFICATIONS AND SIGNATURE OF PROGRAM PROVIDER'S AUTHORIZED REPRESENTATIVE

THIS AGREEMENT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF PROGRAM PROVIDER.

The undersigned certifies under penalty of perjury both individually and on behalf of Program Provider that:

- A. The undersigned is a duly authorized representative of Program Provider, has been authorized by Program Provider to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Program Provider;
- B. By signature on this Agreement for Program Provider, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Program Provider and that Program Provider is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.
- C. To the best of the undersigned's knowledge, Program Provider 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.
- D. Program Provider and Program Provider's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States.

States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/tl1sdn.pdf>; and

E. Program Provider is bound by and will comply with all requirements, terms and conditions contained in this Agreement.

F. Program Provider further certifies to having a formal statement of nondiscrimination in employment policy.

PROGRAM PROVIDER, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT PROGRAM PROVIDER HAS READ THIS AGREEMENT, UNDERSTANDS IT, HAS THE LEGAL AUTHORITY TO BIND, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Program Provider (print Program Provider's name): Clackamas County Social Services Division

Authorized Signature: _____ Date: _____

By (print name): Cindy Becker Title: Director, Health, Housing & Human Services

Telephone #: 503-650-5696 Fax #: 503-655-8677

E-Mail Address: CBecker@clackamas.us

36. SIGNATURE OF STATE'S AUTHORIZED REPRESENTATIVE

State of Oregon acting by and through its
Housing and Community Services Department
725 Summer Street NE Suite B, Salem, OR 97301

Authorized Signature: _____
Margaret S. Van Vliet, Director or designee Date

Agency Contact Person: Cecillia Lyons
Contact Telephone Number: 503-986-2065
Fax Number: 503-986-2006
E-Mail Address: cecilia.lyons@state.or.us

DEPARTMENT OF JUSTICE

Approved by: D. Kevin Carlson, Senior Assistant Attorney General (via e-mail) Date: 8/20/2012



RAIG ROBERTS, Sheriff

Clackamas County Sheriff's Office

6

November 29, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approval to enter into an Intergovernmental Agreement Between Clackamas County Sheriff's Office and the State of Oregon ODOT to Participate in the Motor Carrier Safety Assistance Program (MCSAP) 2012 - 2013

In 2004, more than 5,000 people died in large truck crashes, with nearly 4,000 of those being the result of passenger vehicles and trucks colliding. To help reduce these crashes and fatalities, Congress directed the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration to work together to educate motorists on how to share the road safely with commercial motor vehicles. This Intergovernmental Agreement will provide funds for the Clackamas County Sheriff's Office to use selective enforcement on aggressive cars and trucks which operate unsafely in the vicinity of commercial vehicles.

The identified problems with unsafe driving behaviors may include, but are not limited to: lack of seatbelt use in commercial vehicles, unsafe lane changes, tailgating, failing to signal lane changes, failing to yield the right of way, speeding and aggressive driving. A 2006 study found that only 59% of Commercial Motor vehicle drivers wear seatbelts.

Traditionally, these unsafe behaviors are difficult to enforce on commercial vehicles because it is difficult to see inside the cab of a truck, sun glare on the large windshields, high travel speeds and the lowered seats. Some of the funds included in this IGA will pay for the purchase of specialized photographic equipment which will make it easier to see if a commercial driver is wearing a seatbelt. The camera will allow us to take high-quality in-focus photos up to 800 feet away with vehicles in motion; cut window glare and enhance lighting inside the cab to allow us to see if a seatbelt is in use.

This project is a continuation of a project which began in May, 2008.

"Working Together to Make a Difference"

The total project cost is \$129,815.73. CCSO match is 20% or a maximum of \$21,750 which will be in the form of a soft match for supervisor time, gasoline and currently uncompensated Truck Inspections. The agreement covers purchases made and services to be performed during the period during this Federal Fiscal year ending September 30, 2013. All equipment purchases, enhancements and maintenance are covered by the Grant. ODOT will reimburse CCSO for actual costs incurred for each truck inspection and citation warning.

County Counsel has approved this IGA.

RECOMMENDATION

It's recommended that the Board of County Commissioners approve this Intergovernmental Agreement between the Clackamas County Sheriff's Office and the State of Oregon ODOT to fund a Motor Carrier Safety Assistance Program FFY 2013.

Sincerely,


Matt Ellington
Undersheriff

For more information on this issue or copies of attachments please contact John Naccarato at 503-785-5000.

INTERGOVERNMENTAL AGREEMENT

Motor Carrier

Motor Carrier Safety Assistance Program Federal Fiscal Year 2013

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, Motor Carrier Transportation Division, hereinafter referred to as "ODOT," and CLACKAMAS COUNTY by and through its Sheriff's Office hereinafter referred to as "CCSO," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 283.110, and 825.250, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers or agents have the authority to perform.
2. As defined in ORS 825.250 (2), an "authorized representative" means a city, county or state employee who has been trained and certified by ODOT as a commercial vehicle inspector, as defined in Oregon Administrative Rules (OAR) 740-100-0115, and who is employed either by ODOT or by an agency that has an agreement with ODOT to provide inspections of commercial vehicles, drivers, general cargo or hazardous materials.
3. CCSO wishes to have a certain number of its employees remain or become authorized representatives for purposes of ORS 825.250(2). Further, CCSO wishes to receive federal fund reimbursement for approved Motor Carrier Safety Assistance Program (MCSAP) activities conducted at the request of ODOT.
4. ODOT wishes to enter into agreements with participating agencies in order to ensure that highway safety is enhanced through uniform commercial motor vehicle inspections conducted statewide.

NOW, THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, ODOT wishes to retain the services of CCSO to perform the work described in this Agreement.
2. Total Project cost is \$129,815.73, including CCSO's twenty (20) percent matching fund requirement and MCSAP Maintenance of Effort (MOE) requirement. ODOT's payments to CCSO under this Agreement will be based on actual costs related to the MCSAP activities detailed in FUNDED SELECTIVE ENFORCEMENT WORK below. Program payments will be made solely from federal funds and shall not exceed \$87,000.00. No state funds are obligated under this Agreement. CCSO shall be responsible for any nonparticipating costs and Project costs beyond the estimate.
3. Reimbursements will be made by ODOT on a basis of first obligations. The first \$21,065.73 of MCSAP eligible expenses will satisfy the MCSAP MOE requirement and will not be reimbursed. All subsequent reimbursements will be on an 80/20 [80 percent of billed amounts will be compensated] basis to ensure matching efforts are complete

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3. ODOT considers CCSO a sub-recipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this work is 20.218, National Motor Carrier Safety.
4. ODOT and CCSO agree that their authorized inspection representatives, certified as commercial vehicle inspectors, as defined by OAR 740-100-0015, by ODOT, under ORS 810.560, will implement inspection procedures in accordance with minimum standards contained herein.
5. ODOT and CCSO agree to enforce the North American Uniform Inspection Out-of-Service Criteria as authored and published by the Commercial Vehicle Safety Alliance (CVSA).
6. The North American Uniform Inspection Out-of-Service Criteria standards are adopted into Oregon law by ODOT under:
 1. OAR 740-100-0090, Part I - Driver.
 2. OAR 740-100-0070, Part II - Vehicle.
 3. OAR 740-100-0080, Part III - Hazardous Materials.
7. For Ticketing Aggressive Cars and Trucks (TACT) activities, ODOT agrees to pay up to \$35,000.00. Payments will be made from federal funds for services outlined in Paragraph 2 under FUNDED SELECTIVE ENFORCEMENT WORK. No state funds are obligated for this activity. TACT activities must be pre-approved by ODOT.
8. This Agreement covers services performed, and purchases made, during the period from October 1, 2012, through September 30, 2013. The payment for work completed may be made through December 31, 2013, on which date this Agreement automatically terminates unless extended by a fully executed amendment.

FUNDED SELECTIVE ENFORCEMENT WORK

ODOT agrees to reimburse CCSO for:

1. Performing Commercial Vehicle inspections in accordance with the Level I, II, III, and IV standards.
2. Participating in selective TACT enforcement exercises primarily directed at non-Commercial Motor Vehicle (CMV) drivers whose behaviors create operational hazards for CMVs. It is understood that officers may also encounter violations committed by CMV drivers during such exercises. In both instances only enforcement actions resulting in citations or written warnings, clearly documenting that the violation(s) occurred around a CMV or as a result of a CMV driver's behavior, will be compensated.
 - a. During scheduled operations, CCSO is expected to cite or warn at a minimum rate of two (2) drivers per hour, per patrol position.
 - b. All TACT activity shall occur in or near the Accident Intensified MCSAP Corridors (AIM Corridors) identified by ODOT in Exhibit D, the Appendix C: Guide to the Commercial Vehicle Safety Plan (CVSP), attached hereto and by this reference made a part hereof.

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3. Participating in ODOT special operations during which truck inspections are performed by other agencies, with CCSO providing additional support specifically requested by ODOT.
4. Supplies and equipment used in performing inspections or other activities when mutually agreed to in writing. Any such reimbursement will be counted against the limit of \$87,000.00.

CCSO OBLIGATIONS

1. CCSO shall perform the work described in this Agreement and in accordance with the CVSP.
2. CCSO shall:
 - a. Submit Exhibit E – **Line Item Budget Form**, attached hereto and by this reference made a part hereof, reporting all direct and indirect expenditures in performance of this Agreement. Exhibit E describes the expenditures for allocable costs such as personnel and related costs, equipment purchases, printing, information systems costs, and other eligible costs.
 - b. Request in writing to the MCSAP Project Manager, all proposed capital or non-expendable equipment expenditures to be paid for with MCSAP funds. Such request shall contain an exact identification of the proposed purchase, cost, use, and justification.
 - c. Maintain the average aggregate expenditure, exclusive of federal funds and matching funds, for CMV safety programs eligible for funding under this part at a level at least equal to the average level of expenditure for the three (3) full fiscal years beginning after October 1 of the year five (5) years prior to the beginning of each federal fiscal year.
 - d. Request reimbursement as follows: Submit invoices along with supporting documentation to ODOT at least quarterly. Supporting documentation must include Exhibit E - **Line Item Budget Form**, with the "Total Expenses To Date" and "Expenses this Reporting Period" columns filled out.
 - e. Comply with all provisions contained in Exhibits A, B and C, attached hereto and *incorporated herein*.
 - f. Comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, CCSO expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
 - g. Ensure that all CCSO personnel as defined by OAR 740-100-0015 who engage in the inspection of commercial motor vehicles and their drivers are trained and certified by

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ODOT pursuant to ORS 810.560. Personnel shall also attend eight (8) hours of ODOT provided refresher training once every two (2) years.

- h. Enforce Oregon's Commercial Vehicle Safety and Hazardous Material Rules and Regulations in a manner consistent with the approved state MCSAP/CVSP and MCSAP/Commercial Vehicle Safety Alliance (CVSA) approved inspection procedures.
 - i. Conduct inspection levels as defined by ODOT.
 - j. Conduct all inspections on public highways and conduct at least twenty-five (25) percent of the inspections during off peak hours.
 - k. Maintain an average agency driver out-of-service rate at or above the national average reported by the Federal Motor Carrier Safety Administration (FMCSA).
 - l. Conduct roadside inspections at locations that are adequate to protect the safety of drivers and enforcement personnel.
 - m. Conduct no inspections at a motor carrier's terminal unless such inspections have been authorized by ODOT.
 - n. Initiate inspections only after a traffic stop, size and weight enforcement stop, or when an out-of-service defect is detected during the normal duty activities of a certified inspector.
 - o. Verify ODOT registration status for each commercial vehicle inspected power unit.
 - p. To the greatest extent possible, record all inspections on ASPEN™ software and electronically upload computer-driven inspections daily to the federal Safety and Fitness Electronic Reporting (SAFER) system.
 - q. Provide, in the event that CCSO is unable to record all inspections on ASPEN™ software and electronically upload computer-driven inspections daily to ODOT, written records of all manual inspections to ODOT on ODOT Driver/Equipment Compliance Check Form No. 735-9242, and forward completed inspections to ODOT within five (5) working days of the inspection.
 - r. Purchase and receive equipment before the end of the federal fiscal year 2013 and request reimbursement in writing to the MCSAP Officer within thirty (30) days of receiving the equipment. Request shall include a copy of the original bill of sale from the supplier(s).
 - s. Notify the MCSAP officer of any joint or special operations involving commercial motor vehicles.
 - t. Comply with the requirements of 2 Code of Federal Regulations (CFR), Part 225 (previously OMB Circular A-87, "Cost Principles of State, Local and Indian Tribal Governments").
3. CCSO shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from ODOT.

4. All employers, including CCSO, that employ subject workers who work under this Agreement 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. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. CCSO shall ensure that each of its contractors complies with these requirements.
5. CCSO shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.

ODOT OBLIGATIONS

1. In consideration for the services performed, ODOT agrees to reimburse CCSO, pursuant to its obligations set forth above, an amount not to exceed \$87,000.00 in federal funds for personal services, services & supplies, and equipment expenses incurred while performing selected enforcement work as described above. No state funds are obligated under this Agreement.
2. ODOT will assess CCSO's performance in reference to CCSO Obligations Paragraph 2, Subsection i of this Agreement. In the event CCSO's performance is deemed unreasonable per ODOT's assessment of CCSO Obligations, Paragraph 2, Subsection i of this Agreement, contract termination, per General Provisions Paragraph 3 of this Agreement, will be enforced.
3. In furtherance of ODOT's contractual obligations to FMCSA, and in recognition of ODOT's sponsorship and responsibility to coordinate the motor carrier safety activities of CCSO, ODOT agrees to:
 - a. Pursuant to the Governor's directive, function as the lead agency for purposes of administering Oregon's participation in motor carrier safety activities and to the maximum extent possible coordinate commercial vehicle and driver enforcement activities between all certified and participatory agencies in accordance with the CVSP.
 - b. Coordinate and assist CCSO in the preparation and timely submission to ODOT of required safety program documentation.
 - c. Supply vehicle out-of-service stickers.
 - d. Monitor proper application of inspection procedures, the Motor Carrier Safety Regulations and the Out-of-Service Criteria required by the MCSAP and ORS 810.560. Further, ODOT will review inspection documents for proper documentation techniques and correct application of violations.
 - e. Process written requests for capital expenditures for carrying out the provisions of the CVSP and this Agreement. CCSO acknowledges that ODOT must first have written authority from the FMCSA to make such expenditures, and that ODOT shall not reimburse CCSO for such expenditures prior to and unless such written authority is obtained.
 - f. Consolidate CCSO's safety activities and fiscal reports.

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- g. Train, retrain (as necessary or desirable and within ODOT's ability to make training available), test, and certify the inspectors of CCSO, in accordance with ORS 810.560, this Agreement, the Oregon Board of Public Safety Standards and Training, and, as applicable, CVSA.
4. The Manager of Safety and Federal Programs at the Motor Carrier Transportation Division is ODOT's Project Manager for purposes of administering this Agreement, is Doug Hedlund, 550 Capitol Street NE, Salem, OR 97301-2530, (503) 373-7184, William.D.HEDLUND@odot.state.or.us, or assigned designee upon individual's absence. ODOT shall notify the other Party in writing of any contact information changes during the term of this Agreement.
5. In no event shall ODOT's obligations hereunder be construed to require ODOT to provide any coordination or assistance in the form of either personnel or funds, related to CCSO's efforts to ensure it will be able to continue providing mission critical services.

GENERAL PROVISIONS

1. ODOT certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within ODOT's current appropriation or limitation of current biennial budget.
2. This Agreement may be terminated by mutual written consent of both Parties.
3. ODOT may terminate this Agreement effective upon delivery of written notice to CCSO, or at such later date as may be established by ODOT, under any of the following conditions:
 - a. If CCSO fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
 - b. If CCSO fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within ten (10) days or such longer period as ODOT may authorize;
 - c. If ODOT fails to receive funding, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the work provided in the agreement, including cancellation or discontinuation of any federal grants whose funds are used to pay for CCSO's work under this Agreement;
 - d. 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 if ODOT is prohibited from paying for such work from the planned funding source.
4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination except when the Agreement is terminated due to conditions 3c or 3d above.
5. 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 ODOT or CCSO 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.

6. With respect to a Third Party Claim for which ODOT is jointly liable with CCSO (or would be if joined in the Third Party Claim), ODOT 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 CCSO in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of CCSO 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 ODOT on the one hand and of CCSO 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. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
7. With respect to a Third Party Claim for which CCSO is jointly liable with ODOT (or would be if joined in the Third Party Claim), CCSO 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 ODOT in such proportion as is appropriate to reflect the relative fault of CCSO on the one hand and of ODOT 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 CCSO on the one hand and of ODOT 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. CCSO's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
8. 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.
9. CCSO acknowledges and agrees that ODOT, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of CCSO, which are directly pertinent to the specific Agreement for the purpose of making audits, examinations, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
10. As federal funds are involved in this Agreement, EXHIBITS A, B and C are attached hereto and by this reference made a part of this Agreement, and are hereby certified to by CCSO representative.

ODOT/CCSO
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- 11. CCSO, as a recipient of grant funds, pursuant to this Agreement with ODOT, shall assume sole liability for CCSO's breach of the conditions of the grant, and shall, upon CCSO's breach of grant conditions that requires ODOT to return funds to FMCSA, the grantor, hold harmless and indemnify ODOT for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of CCSO, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- 12. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- 13. This Agreement and attached exhibits 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 ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

CLACKAMAS COUNTY, by and through its
Sheriff's Office

By MATT ELLINGTON ADU
 Title UNDERSHERIFF
 Date 11-15-12

CCSO Contact:
 Sgt John Naccarato
 1280 SE 82nd Ave
 Clackamas, OR 97015
 (503) 557-2893
johnnac@co.clackamas.or.us

ODOT Contact:
 Paul Kroll, Fiscal Officer, Motor Carrier
 Administration
 PUC Building
 550 Capitol St NE
 Salem, OR. 97301-2530
 (503) 378-6204

STATE OF OREGON, by and through its
Department of Transportation

By _____
 Section Manager, Motor Carrier,
 Investigations/Safety/Federal Programs
 Date _____

APPROVAL RECOMMENDED

By _____
 Fiscal Officer, Motor Carrier Administration
 Date _____



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Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

November 29, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement between Clackamas County, Tri City Service District, and Clackamas County Service District No. 1

Technology Services is seeking approval from the Board of County Commissioners for an Intergovernmental Agreement (IGA) between Clackamas County, Tri City Service District (TCSD), and Clackamas County Service District No. 1 (CCSD #1).

In 2010 the County received a \$7.8 million federal grant to construct fiber optic cables around County. As part of the project, the County wishes to connect fiber to some TCSD and CCSD#1 facilities. In order to provide an interconnection point and a path and for the backbone fiber optic system, the County would like to construct a room for interconnection equipment and place a small portion of the backbone on TCSD property located at 15941 Agnes Avenue in Oregon City. The County would also like to utilize a conduit owned by CCSD#1 that is west and parallel to Interstate 205 for a fiber backbone route to the Clackamas area.

The parties estimate that the new fiber connections to TCSD and CCSD#1 facilities will result in net savings to TCSD and CCSD#1 of approximately \$18,000 per year.

Counsel for the County, TCSD and CCSD#1 have reviewed and approved the form of the IGA.

RECOMMENDATION:

Staff respectfully recommends the approval and formal adoption of the IGA between the County, TCSD, and CCSD #1.

Sincerely,

Dave Cummings
CIO Technology Services

For more information on this issue or copies of attachments contact Dave DeVore (503) 723-4996

Lease of Space & Service Agreement
between
Clackamas County, Tri-City Service District,
and Clackamas County Service District No. 1

This Lease of Space and Service Agreement ("Agreement") is entered into by and between Clackamas County, Oregon, a political subdivision of the State of Oregon ("County"), Tri-City Service District, a county service district ("TCSD"), and Clackamas County Service District No. 1 ("CCSD#1") a county service district and, together with TCSD, the "Districts").

RECITALS

WHEREAS, the County received a \$7.8 million federal grant to construct an open access dark fiber optic broadband infrastructure network throughout the County and to connect about 160 public buildings on a route that is generally represented on the map attached as Exhibit A; and

WHEREAS, the County desires to invest over \$90,000 to construct a fiber optic connections to TCSD's and CCSD#1's wastewater treatment plants, and to utilize a portion of TCSD property for a router station and to utilize one of CCSD#1's conduit paths for its fiber optic backbone route; and

WHEREAS, the Districts desire the benefit of access to advanced broadband infrastructure, the estimated net savings of approximately \$18,000 annually this infrastructure will create, and other considerations specified herein;

NOW THEREFORE, the County, TCSD and CCSD#1 agree as follows:

Section 1. Rights and Responsibilities

- A. The County will construct at its sole expense a fiber optic cable system around the County, including broadband infrastructure that will connect (i) the TCSD wastewater treatment plant and operations center located at 15941 S. Agnes Ave, Oregon City, Oregon, (ii) the Kellogg Creek wastewater treatment plant located at 11525 SE McLoughlin Blvd., Milwaukie, Oregon, (iii) the Intertie facility located at 13425 SE Johnson Road, Milwaukie, Oregon and (iv) the Hoodland treatment plant located at 24596 E. Bright Avenue, Welches, Oregon. The direct construction costs excluding the backbone are estimated to be: \$50,100 to connect Tri-City; \$3,700 to connect Kellogg Creek; \$22,300 to connect the Intertie, and \$16,100 to connect Hoodland. The County shall provide this service for so long as it operates and/or is responsible for the fiber optic cable system.

- B. TCSD will allow the County to construct broadband infrastructure on and across a portion of its property as represented on the map attached as Exhibit A. This allowance includes approximately ten cubic feet of space in the north end of the administration building for an enclosure to house broadband infrastructure needed to make fiber optic connections, and includes but is not limited to fiber optic cables, patch panels and equipment racks. CCSD#1 will allow the County to pass fiber optic cable into and through the conduit constructed by CCSD#1 running from the Tri-City Plant in Oregon City to its Intertie facility approximately 6 miles to the north. TCSD and CCSD#1 acknowledge that there will be a cost-based fee that covers ongoing operations and maintenance but the fees exclude the recovery of any capital costs. TCSD and CCSD#1 estimate that their ability to use the broadband infrastructure will result in net savings of approximately \$18,000 each year in reduced internet connectivity and data transport costs.
- C. The Districts will allow the County, its employees and agents who have appropriate security clearance to access the enclosure seven days per week, 24 hours per day unless such access will interfere with immediate operations of the wastewater treatment plants that could result in a violation of the Clean Water Act. The County expects most work will be performed during regular business hours, but some work will occur outside of regular business hours. The County will provide reasonable advance notice of not less than three (3) business days to the Districts, but the parties acknowledge that there may be emergencies or situations where advance notice is not possible.
- D. County shall not sell or transfer title to broadband infrastructure in District property without providing notice to the Districts.

Section 2. Construction standards

Prior to constructing the enclosure, the County will submit the plans for it to TCSD for review and approval, such approval will be timely and not unreasonably withheld. The County will construct the enclosure at its expense. The County shall comply with all applicable construction standards in existence at the time of this Agreement or hereafter enacted. The County will follow industry standard practices in utilizing the conduit corridor owned by CCSD#1.

Section 3. Relocation

The Districts may require the broadband infrastructure to be relocated, when such relocation is reasonably necessary for the construction, repairs, maintenance or installation of any District improvement. The Districts shall provide County with at least 90 days advance notice of temporary relocations, and 180 days notice of permanent relocations. The relocation shall not unreasonably impair or disrupt the operations of the broadband infrastructure. The relocation shall be processed in accordance with the Construction Standards, above, and shall be at the County's sole expense.

Section 4. Term

The term of this Agreement shall be the greater of twenty (20) years from the effective date of this Agreement, or the useful life of the broadband infrastructure as long as the County's broadband infrastructure remains on or within District property. This Agreement may be amended by mutual consent of the parties in writing.

Section 5. Indemnification

Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the Parties shall indemnify, defend and hold harmless one another's commissioners, employees and agents from and against any and all liability, claims, damages, losses, and expenses.

Section 6. Entire Agreement

The Parties agree and acknowledge that this Agreement and its incorporated exhibit is a complete, integrated agreement that supersedes any prior understandings related to implementation of the County's broadband infrastructure and that it is the entire agreement between them relative to broadband infrastructure, and TCSD's and CCSD#1's property.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth opposite their names below.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

By (signature): _____

By (printed name): _____

Title: _____

Date: _____

Recording Secretary

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS ACTING AS THE
GOVERNING BODY OF TRI-CITY SERVICE DISTRICT**

By (signature): _____

By (printed name): _____

Title: _____

Date: _____

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS ACTING AS THE
GOVERNING BODY OF CLACKAMAS COUNTY SERVICE DISTRICT NO. 1**

By (signature): _____

By (printed name): _____

Title: _____

Date: _____



NANCY S. BUSH
DIRECTOR



DEPARTMENT OF EMERGENCY MANAGEMENT

November 29, 2012

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

Board of Commissioners
Clackamas County

Members of the Board:

**APPROVAL OF A LOCAL GRANT AGREEMENT WITH
BORING WATER DISTRICT, CLACKAMAS RIVER WATER DISTRICT, CITY OF HAPPY VALLEY, CITY OF
MILWAUKIE, CITY OF WILSONVILLE AND SUNRISE WATER AUTHORITY
FOR THE FY 2010 URBAN AREA SECURITY INITIATIVE GRANT**

The Emergency Management Department requests your approval and signature on a Local Grant Agreement between Clackamas County and the sponsored agencies; Boring Water District, Clackamas River Water District, City of Happy Valley, City of Milwaukie, City of Wilsonville and Sunrise Water Authority for the FY 2010 Urban Area Security Initiative (UASI) Grant. Clackamas County Emergency Management is the sponsoring agency for other county jurisdictions that benefit from Urban Area Security Initiative grants.

Clackamas County agencies have been awarded \$371,495 (with an earlier award of \$701,146, bringing the grant award total to \$1,072,641) through the FY 2010 UASI Grant to procure equipment to enhance emergency response capability in the Urban Area. The FY 2010 UASI grant provides funding for the following interoperable communications, CBRNE (Chemical, Biological, Radiological, Nuclear and Explosive), emergency water treatment and incident response projects (agencies listed here that are not included in this request for a Local Government Agreement have already signed a Local Government Agreement with the County) :

Clackamas County Fire District #1 - \$12,000 for CBRNE/WMD protective suits.

Cities of Happy Valley, Milwaukie and Wilsonville and Boring Water, Clackamas River Water and Sunrise Water Districts - \$298,175 for light plants, incident response vehicles, concrete saws, water interconnections, portable piping and emergency water purification systems related to Emergency Water Distribution systems.

Clackamas County Emergency Management - \$20,000 to print and translate the 2013 Emergency Preparedness Calendar for distribution to Spanish and Russian speaking citizens.


Clackamas County Sheriff's Office - \$41,320 for a rapid deploy shelter for conducting swift water rescue operations.

On September 15, 2011, the Clackamas County Board of Commissioners approved the Intergovernmental Agreement between Clackamas County and the City of Portland regarding purchases and reimbursements made according to the UASI Grant awarded for FY 2010. All of the identified equipment will be available to the Urban Area for response to natural or manmade disasters. County Counsel has approved this agreement as to form.

RECOMMENDATION

The Emergency Management Department recommends approval of the Local Grant Agreements for the FY 2010 Urban Areas Security Initiative Grant.

Respectfully Submitted,


Nancy Bush
Director

For information on this issue or copies of attachments please contact Nancy Bush at (503) 655-8665

**URBAN AREA SECURITY INITIATIVE (UASI)
LOCAL GRANT AGREEMENT**

THIS IS an intergovernmental agreement (Agreement) between Clackamas County, Oregon ("County") and the City of Barlow, the City of Canby, the City of Damascus, the City of Estacada, the City of Gladstone, the City of Happy Valley, the City of Johnson City, the City of Lake Oswego, the City of Milwaukie, the City of Molalla, the City of Oregon City, the City of Rivergrove, the City of Sandy, the City of West Linn, the City of Wilsonville, Boring Fire District, Canby Fire District #62, Clackamas Fire District #1, Colton Fire District #70, Estacada Rural Fire District #69, Hoodland Fire District #74, Molalla Rural Fire Protection District #73, Sandy Fire District #72, Boring Water District, Clackamas River Water and Sunrise Water District ("Sub-recipient") entered into pursuant to the authority granted in Oregon Revised Statutes (ORS) Chapter 190 for the coordination of activities related to use of the United States Department of Homeland Security's Urban Areas Security Initiative (UASI) grant program funds for addressing the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas to assist in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.

SECTION I. RECITALS

WHEREAS, the United States Department of Homeland Security, Federal Emergency Management Sub-recipient (FEMA) Grant Programs Directorate, provided UASI grant funding in the amount of \$7,178,800 in Fiscal Year 2010 to the state of Oregon (State) for distribution to the Portland Urban Area (PUA); and

WHEREAS, the State awarded UASI Grant #10-170 (CFDA #97.008) to the City of Portland, Bureau of Emergency Management (PBEM) (referred to as Portland Office of Emergency Management (POEM) in all other referenced documents, currently named PBEM), as sub grantee, for Fiscal Year 2010 in the amount of \$6,874,736, a copy of which is attached to this Agreement and incorporated herein as Exhibit A; and

WHEREAS, UASI Grant #10-170 is intended to increase the capabilities of the PUA, which includes jurisdictions, agencies, and organizations in Multnomah, Clackamas, Columbia, and Clackamas counties in Oregon and Clark County in Washington, to prevent, protect against, respond to, and recover from threats and acts of terrorism; and

WHEREAS, a list of equipment, supplies, professional services, training, and exercises to be funded by the grant has been developed through the application process and coordination with the State; and

WHEREAS, PBEM, as Grant Administrator, is required to oversee and coordinate the expenditure of the UASI grant funds and has developed procedures to guide the procurement, delivery, and reimbursement processes; and

WHEREAS, PBEM, as Grant Administrator, is required to make periodic reports to the State regarding the expenditure of the UASI grant funds and has developed procedures to coordinate the collection and submission of information and documents needed to support the reporting process; and

WHEREAS, the City of Portland and all other PUA jurisdictions, agencies, and organizations that receive direct benefit from UASI grant purchases are required to comply with all terms of the UASI Grant # 10-170 award including, but not limited to, obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds; and

WHEREAS, the City of Portland has entered into an agreement with Clackamas County to secure the County's commitment to follow the City of Portland-developed procurement, delivery, reimbursement, and reporting procedures, to ensure its compliance with all terms of the grant, and to obligate it to coordinate with and obtain similar assurances from directly benefiting jurisdictions, agencies, and organizations within the County.

WHEREAS, upon acceptance and signature of this Local Government Agreement, the sub-recipient becomes eligible to receive UASI FY2010 funding.

NOW, THEREFORE, the parties agree as follows:

1. **The County agrees:**

To coordinate grant-related procurement, reimbursement, and reporting activities with directly benefiting jurisdictions, agencies, and organizations in the County consistent with the processes developed by the City of Portland to manage those activities.

2. **The Sub-recipient agrees:**

- a) That it has read the award conditions and certifications for UASI Grant #10-170, 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 City of Portland, as grantee, under those grant documents.
- b) To comply with all City of Portland and State financial management and procurement requirements, including competitive bid processes, and to maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR) and Office of Management and Budget (OMB) circulars. A nonexclusive list of regulations commonly applicable to DHS grants includes:

- i. Administrative Requirements: 44 CFR Part 13 (State and Local Governments) and 2 CFR Part 215 (Non-Profit Organizations).
 - ii. Cost Principles: 2 CFR Part 225 (State, Local, and Tribal Governments); Part 230 (Non-Profit Organizations); and Federal Acquisition Regulations (FAR) Part 31.2 (Contracts with Commercial Organizations).
 - iii. Audit Requirements: OMB Circular A-133.
- c) That all equipment, supplies, and services provided by the City of Portland are as described in the approved grant budget documents, which the Sub-recipient has seen.
 - d) That it will not deviate from the items listed in the approved grant budget documents without first securing written authority from the City of Portland.
 - e) To comply with all property and equipment tracking and monitoring processes required by the grants, this Agreement, the City of Portland, Clackamas County and the State.
 - f) To treat all single items of equipment valued over \$5,000 as fixed assets and to provide the City of Portland with a list of such equipment. The list should include, but is not limited to, dates of purchase, equipment description, serial numbers, and locations where the equipment is housed or stored. All requirements for the tracking and monitoring of fixed assets are set forth in 44 CFR Part 13.
 - g) To maintain and store all equipment and supplies, provided or purchased, in a manner that will best prolong its life and keep it in good working order at all times.
 - h) That regardless of how it is procured, all equipment and supplies purchased shall be owned by the Sub-recipient until proper disposition takes place. The Sub-recipient shall be responsible for inventory tracking, maintenance, and storage while in possession of such equipment and supplies.
 - i) That any request or invoice it submits for reimbursement of costs is consistent with the items identified in the approved grant budget documents.
 - j) That it understands and accepts full financial responsibility and may not be reimbursed for costs incurred which have not been approved by the City of Portland, State, and the U.S. Department of Homeland Security, FEMA Grant Programs Directorate.

- k) That all publications created with funding under this grant shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."
- l) That all financial records and supporting documentation, and all other records pertinent to this grant or agreements under this grant, shall be retained for a minimum of six years following termination, completion, or expiration of this Agreement for purposes of City of Portland, State, or federal examination and audit.
- m) To obtain a copy of 44 CFR Part 13 and all applicable OMB circulars, and to apprise itself of all rules and regulations set forth.
- n) Not to supplant its local funds with federal and to, instead, use the federal funds to increase the amount of funds that, in the absence of federal aid, would be made available to fund programs within the UASI grant program guidelines.
- o) To list the City of Portland as a party to be held harmless and, subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, indemnified by the City and any contractor or subcontractor thereof, for any injury to person or property arising out of the equipment, supplies, or services provided under this Agreement, and as a party to whom a listed duty is due.
- p) To comply with National Incident Management System (NIMS) objectives identified as requirements by the State.
- q) To comply with all applicable federal, state, and local environmental and historic preservation (EHP) requirements and provide information requested to ensure compliance with applicable laws.
- r) To provide timely compliance with all reporting obligations required by the grant's terms and the City of Portland.
- s) To provide the City of Portland with Performance Reports, Financial Reimbursement Reports, and Audit Reports when required by the City of Portland and in the form required by the City of Portland.
 - i. Performance Reports are due to PBEM biannually on June 15th and December 15th during the term of the grant agreement. Late Performance Reports could result in the suspension and/or termination of the grant.

- ii. Financial Reimbursement Reports are due no less frequently than quarterly during the term of the grant agreement. Late Financial Reimbursement Reports could result in the suspension and/or termination of the grant.
- iii. Per UASI Grant #10-170, Section K.2.b., reimbursement for expenses may be withheld if performance reports are not submitted by the specified dates or are incomplete.
- t) To follow the travel expense and per diem guidelines set forth by the U.S. General Services Administration (GSA) as well as the guidelines of the City of Portland and State. Per UASI Grant #10-170, Section K.2.c., reimbursements rates for travel expenses shall not exceed those allowed by the State. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expense or authorized rates incurred.

GSA per diem rates can be found on the GSA website:
<http://www.gsa.gov/portal/category/21287>.

The City of Portland's guidelines can be found on the Office of the City Auditor's website:
BCP-FIN-6.13 Travel:
<http://www.portlandonline.com/auditor/index.cfm?&c=34747&a=160271>

BCP-FIN-6.14 Non-travel Meals, Light Refreshments and Related Miscellaneous Expenses:
<http://www.portlandonline.com/auditor/index.cfm?&a=160283&c=34747>

- u) To comply with all of its obligations under this Agreement and any applicable, incorporated document or documents.
3. **Effective Date and Duration.** This Agreement shall be effective from the date both parties have signed and shall be terminated on December 31, 2012 unless otherwise extended by the parties in writing or terminated due to failure of one of the Parties to perform.
 4. **Amendment.** This Agreement may be modified or amended only by the written agreement of both parties but must remain consistent with the requirements of the UASI program grant, the agreement between the State and the City of Portland, and the City of Portland's UASI grant agreement with the County.
 5. **Termination.** Either party may terminate this Agreement in the event the other fails to comply with its obligations under the Agreement. If the Agreement is terminated due to the Sub-recipient's failure or inability to comply with the

provisions of the grant or the Agreement, the Sub-recipient will be liable to the City of Portland for the full cost of any equipment, materials, or services provided by the City of Portland to the Sub-recipient, and any penalties imposed by the State or Federal Government. Each party will notify the other, in writing, of its intention to terminate this Agreement and the reasons therefore. The other party shall have fourteen days, or such other time as the parties may agree, from the date of the notice in which to correct or otherwise address the compliance failure which is the subject of the notice.

6. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State, without regard to principles of conflicts of law. Any claim, action, suit or proceeding that arises from or relates to this Agreement shall be brought and conducted exclusively within the Circuit Court of Washington County for the state of Oregon. In the event a claim is brought in a federal forum, then it shall be brought and conducted solely and exclusively in the United States District Court for the District of Oregon.
7. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
8. **Survival.** The terms, conditions, representations, and all warranties in this Agreement shall survive the termination or expiration of this Agreement.
9. **Force Majeure.** Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond reasonable control. Each party shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement.
10. **Indemnification.**
 - a) Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the City shall indemnify, defend and hold harmless the County, its commissioners, employees and agents from and against any and all liability, claims, damages, losses, and expenses, including but not limited to reasonable attorneys fees arising out of or resulting from the acts of the Sub-recipient, its officers, employees, and agents in the performance of this Agreement.
 - b) Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the County shall indemnify, defend and hold harmless the Sub-recipient from and against all liability, loss and costs arising out of or resulting from the acts of the County, its officers, employees, and agents in the performance of this Agreement.

11. **Third Party Beneficiaries.** The County and the Sub-recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or 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 persons are individually identified by name herein.
12. **Successors in Interest.** The terms of this Agreement shall be binding upon the successors and assigns of each party hereto.
13. **Entire Agreement.** The parties agree and acknowledge that this Agreement is a complete, integrated agreement that supersedes any prior understandings related to implementation of the FY-10 UASI program grant and that it is the entire agreement between them relative to that grant.
14. **Worker's Compensation.** Each party shall be responsible for providing worker's compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027). Neither party shall be required to provide or show proof of any other insurance coverage.
15. **Nondiscrimination.** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
16. **Access to Records.** Each party shall maintain, and shall have access to the books, documents, papers, and other records of the other party which are related to this Agreement for the purpose of making audit, examination, excerpts, and transcripts. Copies of applicable records shall be made available upon request. Access to records for Oregon Emergency Management (OEM), the Oregon Secretary of State, the Office of the Comptroller, the General Accounting Office (GAO), or any of their authorized representatives, shall not be limited to the required retention period but shall last as long as records are retained.
17. **Subcontracts and Assignment.** Neither party will subcontract or assign any part of this Agreement without the prior written consent of the other party. Notwithstanding County approval of a subcontractor, the Sub-recipient shall remain obligated for full performance hereunder, and the County shall incur no obligation other than its obligations to the Sub-recipient hereunder.

County program liaison for this Agreement is:

Nancy Bush, Director
Clackamas County Department of Emergency Management
2200 Kaen Road
Oregon City, OR 97045
(503) 655-8665

Sub-recipient liaison for this Agreement is:

Name: _____
Jurisdiction/District: _____
Address: _____
Phone: _____

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

CLACKAMAS COUNTY, a political
subdivision of the State of Oregon

SUB-RECIPIENT

By: _____

By: _____

Authorized Signature

Date: _____, 2012

For: _____

Sub-recipient

Approved as to form

By: _____

Date: _____, 2012

County Counsel

Date: _____, 2012

Approved as to form

By: _____

Attorney

Date: _____, 2012



9

NANCY S. BUSH
DIRECTOR

DEPARTMENT OF EMERGENCY MANAGEMENT

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

November 29, 2012

Board of Commissioners
Clackamas County

Members of the Board:

2012 Clackamas County Wildfire Protection Plan and Updated Memorandum of Agreement

In June of 2004, the Board of Clackamas County Commissioners (BCC) directed County staff to work with state and federal agencies, fire agencies, and community organizations to develop an integrated Clackamas County Wildfire Protection Plan (CCWPP). The BCC adopted this plan in 2005 in a commitment to reduce wildfire risk to citizens, the environment, and quality of life within Clackamas County. The County also entered into a Memorandum of Agreement (MOA) in 2005, with the CCWPP partners, including the Oregon Department of Forestry, the Bureau of Land Management, the United States Forest Service, and the Clackamas District Fire Defense Board, committing to work together to implement and update the CCWPP.

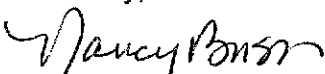
The mission of the CCWPP is to provide a consolidated reference documenting wildfire hazards, prevention and response efforts, and resource-sharing information for all participating local, state, and federal fire agencies. Adoption of the 2012 CCWPP requires no direct expense from the County. The collaborative effort will require staff time to attend quarterly meetings. Adoption by the local governing body is required to ensure that wildfire planning partners remain eligible for grant funds that support wildfire prevention and loss reduction. Business and Community Services and partners will continue to seek funding to implement additional elements as recommended in the CCWPP.

County Counsel has reviewed and approved of the CCWPP and MOA.

RECOMMENDATION:

Staff respectfully recommends that the Board approve the 2012 Clackamas County Community Wildfire Protection Plan and sign the attached updated Memorandum of Agreement

Sincerely,


Nancy Bush
Director

For information on this issue or copies of attachments
please contact Jay Wilson at (503) 723-4848

MEMORANDUM OF AGREEMENT
Collaboration for Clackamas County Community Wildfire Protection Plan

This Memorandum of Agreement is made by and between CLACKAMAS COUNTY, the CLACKAMAS DISTRICT FIRE DEFENSE BOARD, and the OREGON DEPARTMENT OF FORESTRY (hereinafter "parties").

WHEREAS the Healthy Forests Restoration Act, Public Law 108-148, was enacted to conduct hazardous fuel reduction projects on federal lands for the protection of communities and watersheds from catastrophic wildfire and to address threats to forest and rangeland health;

WHEREAS Title I, section 101(3) of the Healthy Forests Restoration Act requires that Community Wildfire Protection Plans made pursuant to the Healthy Forests Restoration Act be developed through collaborative agreements between the applicable local government, local fire department, and State agency responsible for forest management;

WHEREAS Clackamas County, is adopting a Community Wildfire Protection Plan for Clackamas County dated October, 2012;

NOW, THEREFORE, the parties agree as follows:

1. The parties agree that the Community Wildfire Protection Plan has been developed collaboratively for Clackamas County per the guidance established in section 101(3) of the Healthy Forests Restoration Act;
2. The parties agree that the Community Wildfire Protection Plan has been developed and will continue to be implemented and updated in consultation with the following organizations and agencies:

Clackamas District Fire Defense Board:

Aurora Fire Department
Boring Fire District
Canby Fire District
Clackamas Fire District #1
Colton Fire District
Estacada Fire
Gladstone Fire Department
Hoodland Fire District
Lake Oswego Fire Department
Molalla Fire District
Monitor Fire District
Sandy Fire District
Silverton Fire District
Tualatin Valley Fire and Rescue

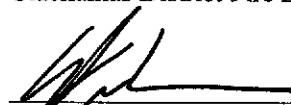
Clackamas County (Emergency Management, Land Use Planning, Building, Geographic Information Systems, Forestry, Parks and Recreation, County Administration)
Clackamas County Fire Prevention Co-op
Clackamas Soil and Water Conservation District
Bureau of Land Management
Keep Oregon Green
Oregon Department of Forestry-North Cascade District
Oregon Office of the State Fire Marshal
Oregon State University Extension
Mount Hood National Forest

Date: 11-19-12



Gary McQueen, President
Clackamas District Fire Defense Board

Date: 11-20-12



Steve Wilson, North Cascade District Forester
Oregon Department of Forestry

Date: _____

Charlotte Lehan, Chair
Clackamas County Board of Commissioners

November 29, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement between Clackamas County, Tri City Service District, and Clackamas County Service District No. 1

Technology Services is seeking approval from the Board of County Commissioners for an Intergovernmental Agreement (IGA) between Clackamas County, Tri City Service District (TCSD), and Clackamas County Service District No. 1 (CCSD #1).

In 2010 the County received a \$7.8 million federal grant to construct fiber optic cables around County. As part of the project, the County wishes to connect fiber to some TCSD and CCSD#1 facilities. In order to provide an interconnection point and a path and for the backbone fiber optic system, the County would like to construct a room for interconnection equipment and place a small portion of the backbone on TCSD property located at 15941 Agnes Avenue in Oregon City. The County would also like to utilize a conduit owned by CCSD#1 that is west and parallel to Interstate 205 for a fiber backbone route to the Clackamas area.

The parties estimate that the new fiber connections to TCSD and CCSD#1 facilities will result in net savings to TCSD and CCSD#1 of approximately \$18,000 per year.

Counsel for the County, TCSD and CCSD#1 have reviewed and approved the form of the IGA.

RECOMMENDATION:

Staff recommends that the Board of Commissioners of Clackamas County acting as the governing body of the Tri-City Service District and Clackamas County Service District No. 1 the approve the Intergovernmental Agreement between the County, TCSD, and CCSD #1.

Sincerely,

Chris Storey, County Counsel
Water Environment Services

Lease of Space & Service Agreement
between
Clackamas County, Tri-City Service District,
and Clackamas County Service District No. 1

This Lease of Space and Service Agreement ("Agreement") is entered into by and between Clackamas County, Oregon, a political subdivision of the State of Oregon ("County"), Tri-City Service District, a county service district ("TCSD"), and Clackamas County Service District No. 1 ("CCSD#1") a county service district and, together with TCSD, the "Districts").

RECITALS

WHEREAS, the County received a \$7.8 million federal grant to construct an open access dark fiber optic broadband infrastructure network throughout the County and to connect about 160 public buildings on a route that is generally represented on the map attached as Exhibit A; and

WHEREAS, the County desires to invest over \$90,000 to construct a fiber optic connections to TCSD's and CCSD#1's wastewater treatment plants, and to utilize a portion of TCSD property for a router station and to utilize one of CCSD#1's conduit paths for its fiber optic backbone route; and

WHEREAS, the Districts desire the benefit of access to advanced broadband infrastructure, the estimated net savings of approximately \$18,000 annually this infrastructure will create, and other considerations specified herein;

NOW THEREFORE, the County, TCSD and CCSD#1 agree as follows:

Section 1. Rights and Responsibilities

- A. The County will construct at its sole expense a fiber optic cable system around the County, including broadband infrastructure that will connect (i) the TCSD wastewater treatment plant and operations center located at 15941 S. Agnes Ave, Oregon City, Oregon, (ii) the Kellogg Creek wastewater treatment plant located at 11525 SE McLoughlin Blvd., Milwaukie, Oregon, (iii) the Intertie facility located at 13425 SE Johnson Road, Milwaukie, Oregon and (iv) the Hoodland treatment plant located at 24596 E. Bright Avenue, Welches, Oregon. The direct construction costs excluding the backbone are estimated to be: \$50,100 to connect Tri-City; \$3,700 to connect Kellogg Creek; \$22,300 to connect the Intertie, and \$16,100 to connect Hoodland. The County shall provide this service for so long as it operates and/or is responsible for the fiber optic cable system.

- B. TCSD will allow the County to construct broadband infrastructure on and across a portion of its property as represented on the map attached as Exhibit A. This allowance includes approximately ten cubic feet of space in the north end of the administration building for an enclosure to house broadband infrastructure needed to make fiber optic connections, and includes but is not limited to fiber optic cables, patch panels and equipment racks. CCSD#1 will allow the County to pass fiber optic cable into and through the conduit constructed by CCSD#1 running from the Tri-City Plant in Oregon City to its Intertie facility approximately 6 miles to the north. TCSD and CCSD#1 acknowledge that there will be a cost-based fee that covers ongoing operations and maintenance but the fees exclude the recovery of any capital costs. TCSD and CCSD#1 estimate that their ability to use the broadband infrastructure will result in net savings of approximately \$18,000 each year in reduced internet connectivity and data transport costs.
- C. The Districts will allow the County, its employees and agents who have appropriate security clearance to access the enclosure seven days per week, 24 hours per day unless such access will interfere with immediate operations of the wastewater treatment plants that could result in a violation of the Clean Water Act. The County expects most work will be performed during regular business hours, but some work will occur outside of regular business hours. The County will provide reasonable advance notice of not less than three (3) business days to the Districts, but the parties acknowledge that there may be emergencies or situations where advance notice is not possible.
- D. County shall not sell or transfer title to broadband infrastructure in District property without providing notice to the Districts.

Section 2. Construction standards

Prior to constructing the enclosure, the County will submit the plans for it to TCSD for review and approval, such approval will be timely and not unreasonably withheld. The County will construct the enclosure at its expense. The County shall comply with all applicable construction standards in existence at the time of this Agreement or hereafter enacted. The County will follow industry standard practices in utilizing the conduit corridor owned by CCSD#1.

Section 3. Relocation

The Districts may require the broadband infrastructure to be relocated, when such relocation is reasonably necessary for the construction, repairs, maintenance or installation of any District improvement. The Districts shall provide County with at least 90 days advance notice of temporary relocations, and 180 days notice of permanent relocations. The relocation shall not unreasonably impair or disrupt the operations of the broadband infrastructure. The relocation shall be processed in accordance with the Construction Standards, above, and shall be at the County's sole expense.

Section 4. Term

The term of this Agreement shall be the greater of twenty (20) years from the effective date of this Agreement, or the useful life of the broadband infrastructure as long as the County's broadband infrastructure remains on or within District property. This Agreement may be amended by mutual consent of the parties in writing.

Section 5. Indemnification

Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the Parties shall indemnify, defend and hold harmless one another's commissioners, employees and agents from and against any and all liability, claims, damages, losses, and expenses.

Section 6. Entire Agreement

The Parties agree and acknowledge that this Agreement and its incorporated exhibit is a complete, integrated agreement that supersedes any prior understandings related to implementation of the County's broadband infrastructure and that it is the entire agreement between them relative to broadband infrastructure, and TCSD's and CCSD#1's property.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth opposite their names below.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

By (signature): _____

By (printed name): _____

Title: _____

Date: _____

Recording Secretary

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS ACTING AS THE
GOVERNING BODY OF TRI-CITY SERVICE DISTRICT**

By (signature): _____

By (printed name): _____

Title: _____

Date: _____

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS ACTING AS THE
GOVERNING BODY OF CLACKAMAS COUNTY SERVICE DISTRICT NO. 1**

By (signature): _____

By (printed name): _____

Title: _____

Date: _____



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Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment
Michael S. Kuenzi, P.E.
Director

November 29, 2012

Board of Commissioners
Clackamas County

Members of the Board:

**APPROVAL AND ACCEPTANCE OF A SERVICE CONNECTION
MORTGAGE IN THE NORTH CLACKAMAS SERVICE AREA FOR
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1**

The property owner listed on the attached service connection mortgage has qualified under the requirements of the District's Rules and Regulations, which allow for payment of systems development charges by semi-annual installment payments secured by a mortgage on the property owned by Richard Nydegger.

Map and Tax Lot: 13E31A 01200. The mortgage is in the amount of \$ 28,625.00 and will be repaid over a ten-year period. District counsel has reviewed and approved the mortgage as to form.

RECOMMENDATION

We respectfully recommend that the Board of Commissioners accept the attached service connection mortgage as allowed by CCSD No.1 Rules and Regulations.

Sincerely,

Michael S. Kuenzi, P.E.
Director

For information on this issue or copies of attachments
Please contact Trista Crase at (503) 742-4566

No Change in Tax Statements

After recording, return to:

Water Environment Services
Clackamas County Service District No.1
150 Beaver Creek Rd
Oregon City, OR 97045

Space Left Blank for Recording Stamp

Accepted By Clackamas County

Agenda Date & Number: _____

OR

Board Order Number: _____

**CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
SERVICE CONNECTION MORTGAGE**

THIS MORTGAGE is made this 3rd day of October, 2012 by and between Richard Nydegger (herein called "Mortgagors") and Clackamas County Service District No. 1, Clackamas County, Oregon (hereinafter called "District").

RECITAL

Mortgagor has voluntarily applied to District to connect to the public sewerage system. By its duly adopted Rules and Regulations, District has imposed system development and collection sewer charges of \$ 28,625.00 for the privilege of connecting the property described on Exhibit A for tax lot 13E31A 01200 attached hereto and incorporated by reference, to the District's sewerage system.

Mortgagor desires to defer payment of the system development and collection sewer charges and the District has agreed to such deferral. Therefore the parties agree as follows:

1. **Definitions.** As used herein the following terms shall have the following meanings.

1.1 **Event of Default.** Any of the happenings and occurrences described in paragraph 4.

1.2 **Fixtures.** To the extent of Mortgagor's interest therein, all fixtures now, or to any time hereafter, attached to or used in any way in connection with the operation, use or occupation of the Real Property, including, without limitation, all machinery and equipment, furniture and furnishings, screens, awnings, storm windows and doors, window shades, floor coverings, shrubbery, plants, boilers, tanks, furnaces, radiators, fire prevention and extinguishing apparatus, security and access control apparatus, communications apparatus, all heating, lighting, plumbing, gas, electric, ventilation, refrigerating, air conditioning and incinerating equipment of whatever kind and nature, all of which are hereby declared and shall be deemed to be fixtures and accessory to the fee and part of the Real Property as between

the parties hereto, their heirs, legal representatives, successors and assigns and all persons claiming by, through or under them.

1.3 Improvements. All buildings and other improvements and all additions thereto and alterations thereof now, or at any time hereafter, located upon the Land or any part thereof.

1.4 Indebtedness. The promissory note made by Mortgagor, payable to District, dated this date, in the amount of \$ 28,625.00 the final payment of which, if not sooner paid is due July 31st 2022, as may be extended, renewed, modified, or amended, and including any adjustments and interest, principal and payment terms.

1.5 Land. The property described on attached Exhibit A.

1.6 Obligations. The covenants, promises and other obligations (other than the Indebtedness) made or owing by Mortgagor to or due District under this Mortgage.

1.7 Real Property. The Land, the Improvements and the Fixtures together with all rights, privileges, permits, licenses, tenements, hereditaments, rights-of-way, easements and appurtenances of the Land, and all right, title and interest of Mortgagor in and to any streets, ways, alleys or strips adjoining the Land or any part thereof.

2. Grant. To secure payment of the Indebtedness and performance and discharge of the Obligations, Mortgagor hereby grants, bargains, sells and conveys and assigns to Mortgagor, a mortgage on the real property.

3. Covenants. Until the entire Indebtedness has been paid in full, Mortgagor covenants and agrees as follows:

3.1 Repayment of Indebtedness. Mortgagor agrees to pay to the District system development and collection sewer charges of \$28,625.00 in not less than twenty equal installments of \$.1,431.25 on the first day of January and July of each year, together with and in addition to each said installment, interest on the unpaid principal balance, as of the principal payment date, at the prime rate of interest being charged on that date by the bank doing business in Oregon and having the largest deposits. Payments received shall be applied first to accrued interest and then to principal.

3.2 Future Advances. The parties hereto agree that if there is a change in class of service requiring the payment of additional system development and collection sewer charges, District, at its option and if the owner qualifies pursuant to the criteria in the Rules and Regulations, may allow those additional system development and collection sewer charges to be financed and secured by this mortgage without loss of priority.

3.3 Compliance with Laws. Mortgagor will promptly and faithfully comply with, conform to, and obey all present and future laws, ordinances, rules, regulations and requirements of every duly constituted governmental authority or agency which may be

applicable to it or to the Real Property, or any part thereof, or to the use or manner of use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction of the Real Property, or any part thereof, whether or not such law, ordinance, rule, order, regulation or requirement necessitates structural changes or improvements or interferes with the use or enjoyment of the Real Property.

3.4 Payment of Taxes and Other Government Charges. Mortgagor will promptly pay and discharge, or cause to be paid and discharged, before delinquency, all real estate and personal property taxes and other taxes and assessments, water and sewer rates and charges, and other governmental charges and any interest or costs for penalties with respect thereto, and charges for any easement or agreement maintained for the benefit of the Real Property which at any time prior to or after the execution of this Mortgage may be assessed, levied or imposed upon the Real Property, or the rent or income received therefrom, or any use of occupancy thereof, and any other taxes, assessments, fees and governmental charges levied, imposed or assessed upon or against Mortgagor or any of Mortgagor's properties.

3.5 Repair. Mortgagor will keep the Real Property in good order and condition and make all necessary or appropriate repairs, replacements and renewals thereof, and will use Mortgagor's best efforts to prevent any act or thing which might impair the value or usefulness of the Real Property. Mortgagor shall not make any alternations or additions to the Improvements or remove any of the Improvements if such alternations, additions or removal would impair the value of the Real Property.

3.6 Inspection. District shall have the right, individually or through agents, at all reasonable times to inspect the Real Property.

3.7 Indemnification. Mortgagor shall indemnify and hold District and District's agents, legal representatives, heirs, successors and assigns harmless against any and all claims, demands, losses, liabilities, costs and expenses (including, without limitation, attorney fees at trial and on any appeal or petition for review) arising out of or in any way related to or affecting the Real Property or Mortgagor's use thereof.

3.8 Construction Liens. Mortgagor shall not permit or suffer any construction or similar lien on any of the Real Property, except as such liens may be filed in the normal course by contractors, suppliers and the like. Mortgagor shall remove or cause the removal of all such liens by payment of amounts due on account thereof. If Mortgagor desires to contest any such lien, immediately upon the commencement of any litigation concerning the same, Mortgagor may contest the lien by posting a bond necessary for its removal.

4. **Events of Default.** Each of the following shall be an Event of Default.

4.1 **Failure to Pay.** The failure of the Mortgagor to pay any portion of the Indebtedness when it is due.

4.2 **Other Defaults.** The failure of Mortgagor to observe or perform any of the Obligations, other than as specified in this paragraph 4, within 10 days after notice from District specifying the nature of the deficiency. No notice of default and opportunity to cure shall be required if during the prior 12 months District has already sent a notice to Mortgagor concerning a deficiency in performance of the same obligation.

4.3 **Insolvency.** The insolvency of Mortgagor; abandonment of the Real Property, or any parcel or portion thereof; an assignment by Mortgagor for the benefit of creditors; the filing by Mortgagor of a voluntary petition in bankruptcy or an adjudication that Mortgagor is bankrupt; the appointment of a receiver for the property of Mortgagor; or the filing of an involuntary petition in bankruptcy and the failure of Mortgagor to secure the dismissal of the petition within 30 days after filing. Any Event of Default under this paragraph 4 shall apply and refer to Mortgagor, any guarantor of the Indebtedness, and to each of the individuals or entities which are collectively referred to as "Mortgagor."

4.4 **Transfer.** The sale, conveyance, transfer or other disposition of the Real Property, or any part thereof, or any interest therein, including the transfer of possessory rights therein, directly or indirectly, either voluntarily, involuntarily or by operation of law, by contract, deed or otherwise, without District's prior written consent, which consent shall not be unreasonably withheld. The District may attach such conditions to its consent as District may determine in its sole discretion, including without limitation, an increase in the interest rate or the payment of transfer of assumption fees and the payment of administrative and legal fees and costs incurred by District.

4.5 The default under any superior encumbrance to this mortgage.

5. **Remedies.** Upon the occurrence of any Event of Default, District may exercise any one or more of the following remedies:

5.1 **Acceleration.** Declare the unpaid portion of the Indebtedness to be immediately due and payable.

5.2 **Foreclosure.** Foreclose this Mortgage in the manner provided by law for mortgage foreclosures.

5.3 **Receiver.** District shall be entitled, as a matter of right, without notice and ex parte, and without regard to the value or occupancy of the security, or the solvency of Mortgagor or the adequacy of the Real Property as security, to have a receiver appointed to

enter upon and take possession of the Real Property, collect the rents therefrom, and apply the same as the court may direct. Any receiver appointed may serve without bond. District shall not be disqualified to serve as receiver. The expense of the receivership (including counsel fees and other costs) shall be secured by this Mortgage.

5.4 Remedies Cumulative and Concurrent. The rights and remedies of District as provided in the Indebtedness and this Mortgage shall be cumulative and concurrent and may be pursued separately, successively, or together against Mortgagor or against other obligors, or against the Real Property, or any one or more of them, at the sole discretion of District, and may be exercised as often as occasion therefore shall arise.

5.5 Nonwaiver. The election of District not to exercise any option or remedy which they may have under this Mortgage with respect to any Event of Default shall not be deemed a waiver of District's right to exercise such rights or options as to any proceeding or subsequent Event of Default, nor shall it be deemed a waiver with respect to that Event of Default or any other remedy available to District under this Mortgage, the Note or applicable law.

5.6 Termination of Services. Mortgagor agrees that sanitary sewer service is necessary and vital for the continued use and functioning of the subject real property. If a default occurs under the terms of this Trust Deed, which default is not cured thirty days following written notice to Mortgagor, the beneficiary, in addition to any other remedies, may terminate sewer service to the subject property. Mortgagor, or its successors or assigns, shall be responsible for all costs associated with disconnection of service and reconnection to the public sewerage system.

6. Miscellaneous.

6.1 District's Right to Act. Upon an Event of Default, District may, at District's option and without waiver of the default, perform the same on behalf of Mortgagor. Expenditures made or charges incurred by District for the foregoing purposes shall be paid by Mortgagor to District immediately upon demand and shall be secured by this Mortgage. Nothing herein shall require District to advance monies for any purpose or to do any other act, and District shall not incur any personal liability because of District's action or inaction under this paragraph.

6.2 Attorney Fees and Costs. In the event action is instituted to enforce or interpret any of the terms of this Mortgage, the prevailing party shall be entitled to recover from the losing party reasonable attorney fees incurred in the action, as set by court, at trial, on appeal or review.

6.3 Time of Essence. Time is of the essence in the payment of the Indebtedness and the Performance of the Obligations under and secured by this Mortgage.

6.4 Applicable Law. This Mortgage shall be governed by and construed according to the laws of the State of Oregon.

6.5 Interpretation. In interpreting this Mortgage, the singular shall include the plural. If Mortgagor consists of more than one person or entity, each such person and entity shall be jointly and severally liable to pay the Indebtedness and perform the Obligations.

6.6 Severability. In case any one or more of the Obligations shall be invalid, illegal or unenforceable in any respect, the validity of the Indebtedness and remaining Obligation shall be in no way effected, prejudiced or disturbed thereby.

6.7 Modification. This Mortgage may not be changed, waived, discharged or terminated orally, but only by an instrument or instruments in writing, signed by the party against which enforcement of the change, waiver, discharge or termination is asserted.

IN WITNESS WHEREOF, the Mortgagor has set his/her/their hand on the day and year first herein above written.

Richard Nydegger
(Legal owner)

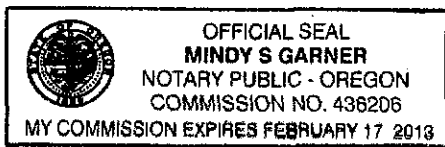
(Legal owner)

11224 SE 172nd Av
Mailing Address Happy Valley OR 97086

Mailing Address

STATE OF OREGON)
County of ~~Clackamas~~ Multnomah) ss.

Personally appearing the above named Richard Nydegger, as LEGAL OWNERS and acknowledged the foregoing instrument to be THEIR voluntary act and deed on this 30 day of Oct., 2012.



Mindy Garner
Notary Public for Oregon
My Commission Expires: 02/17/13