

October 28, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Revenue Intergovernmental Grant Agreement with the Oregon Department of Human Services (ODHS) for Supplemental Nutrition Assistance Program (SNAP) Employment and Training services Grant Award is \$159,700.95. Approximately \$100,000 in County General Funds will be used to satisfy the grant’s match requirement.

<b>Purpose/Outcome</b>	Clackamas County Children, Family & Community Connections through its Workforce program works with SNAP participants to deliver employment training and job placement and provides individual case management to guide, motivate, and support job seekers by continually assessing their needs and challenges, identifying resources, and advising on career and training opportunities.
<b>Dollar Amount and Fiscal Impact</b>	Intergovernmental Agreement has a maximum value of \$159,700.95 Total value of services provided in this grant is \$297,801.91, of which the County is responsible for the \$138,100.96 in matching funds. Division will use a combination of \$42,000 in funding from Community Corrections, \$10,000 in funding from Business and Community Services, and \$88,100.96 in County General Funds to comprise this match. These funds were earmarked for this program within the CFCC FY21-22 annual budget.
<b>Funding Source</b>	Oregon Department of Human Services Agreement No. 171675
<b>Duration</b>	Effective for services starting October 1, 2021 and terminating on September 30 30, 2022
<b>Previous Board Action/Review</b>	Board Issues date: 10/19/21
<b>Strategic Plan Alignment</b>	1. Grow a Vibrant Economy - Provide customized employment services to individuals with barriers to employment, and business partners, so they can obtain and retain meaningful employment through a successful job placement. 2. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	This Intergovernmental agreement has been reviewed and approved by County Counsel on 9/29/21, KR
<b>Procurement Review</b>	Was the item processed through Procurement? No. Revenue Intergovernmental Agreement
<b>Contact Person</b>	Adam Freer 971-533-4929
<b>Contract No.</b>	H3S CFCC #10384

**BACKGROUND:**

The Children, Family & Community Connections (CFCC) Division of the Health, Housing and Human Services Department requests the approval of an Intergovernmental Grant Agreement with the ODHS to deliver Supplemental Nutrition Assistance Employment & Training (SNAP E&T) services to eligible Clackamas County residents. The SNAP E&T program has been administered by CFCC for the past four

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years and helps SNAP participants gain skills and find work that moves them forward to self-sufficiency. This program prioritizes individuals returning from jail and prison and individuals in substance use

disorder recovery programs. Participants have access to job search training, employment placement and retention services to help them enter and move up in the workforce. These programs also help to reduce barriers to work by providing support services as participants obtain and retain meaningful employment within the community.

This Intergovernmental Grant is effective upon signature by all parties for services starting on October 1, 2021 and terminating on September 30, 2022. This Agreement has a value of \$159,700.95.

**RECOMMENDATION:**

Staff recommends Board approval of this Agreement and authorization for Tootie Smith, Board Chair, to sign.

Respectfully submitted,

*Mary Rumbaugh*

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



**Agreement Number 171675**

**STATE OF OREGON  
INTERGOVERNMENTAL AGREEMENT**

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

**GENERAL PROVISIONS**

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

**Clackamas County  
Acting by and through its Department of Health, Housing and Human Services Children,  
Family & Community Connections division  
112 11th Street  
Oregon City, OR 97045  
Attention: Jennifer Harvey  
Telephone: 503-867-7500  
Facsimile: 503-867-7500  
E-mail address: [jharvey@clackamas.us](mailto:jharvey@clackamas.us)**

hereinafter referred to as “County.”

Work to be performed under this Agreement relates principally to ODHS’

**Office of Self-Sufficiency Programs  
Employment & Training  
500 Summer Street NE  
Salem, OR 97301  
Contract Administrator: John Briscoe or delegate  
Telephone: 503-947-5389  
E-mail address: [John.Briscoe@state.or.us](mailto:John.Briscoe@state.or.us)**

## 1. Effective Date and Duration.

This Agreement shall be effective as of: **(a)** the last date of signature in the signature block below of these General Provisions, inclusive of all approval signatures that may be required by applicable law, or **(b) October 1, 2021**, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **September 30, 2022**. Agreement termination or expiration shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

## 2. Agreement Documents.

**a.** This Agreement consists of this document ("General Provisions") and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Federal Terms and Conditions

This Agreement constitutes the entire agreement between the parties on the subject matter in it; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

**b.** These General Provisions and the Exhibits listed in Paragraph a above of this Section 2 ("Contract Documents"), are collectively, the "**Contract.**" To the extent provisions contained in more than one of the foregoing documents apply in any given situation, the parties agree to (i) read such provisions together whenever possible to avoid a conflict, and (ii) apply the following descending order of precedence only in the event of an irreconcilable conflict

- (I) These General Provisions,
- (II) Exhibit D, Federal Terms and Conditions,
- (III) Exhibit B, Standard Terms and Conditions,
- (IV) Exhibit A, Part 3, Special Provisions,
- (V) Exhibit A, Part 1, Statement of Work,
- (VI) Exhibit A, Part 2, Payment and Financial Reporting, and
- (VII) Exhibit C, Insurance.

## 3. Consideration.

- a.** The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **\$159,700.95**. ODHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.
- b.** ODHS will pay only for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A. For purposes of this Agreement,

“Work” means specific work to be performed or services to be delivered by County as set forth in Exhibit A.

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

County is a subrecipient       County is a contractor       Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 10.561

**5. County Data and Certification.**

**a. County Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:**

**b. County Name (exactly as filed with the IRS):**

\_\_\_\_\_  
Clackamas County

Street address: 2051 Kaen Road

City, state, zip code: Oregon City, OR 97045

Email address: jharvey@clackamas.us

Telephone: ( 503 ) 867-7500 Facsimile: ( 503 ) 655-8841

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

Workers’ Compensation Insurance Company: Self insured

Policy #: N/A Expiration Date: N/A

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

- (1) County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) County and that pertains to this Agreement or to the project for which the Agreement work is being performed. County certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS

180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against County;

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

*[Signature page follows on next page]*

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

**COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS**

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

**Clackamas County, Acting by and through its Department of Health, Housing and Human Services Children, Family & Community Connections Division**

**By:** \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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

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

\_\_\_\_\_  
Printed Name

**By:** \_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

Approved via email by Ellen D. Taussig Conaty  
Department of Justice Senior Assistant Attorney General

September 28, 2021  
Date

## EXHIBIT A

### Part 1 Statement of Work

County shall deliver the SNAP E&T (Employment & Training) services, as described in this Agreement, to assist ‘Supplemental Nutrition Assistance Program’ (SNAP) Participants to obtain training and employment services to assist them with obtaining and maintaining employment. County shall deliver the services in accordance with Title 7, Part 273.7 (Work Provisions) of the Code of Federal Regulations as well as the provisions set forth below.

**1. The Department of Human Services (ODHS) shall determine the following:**

- a. SNAP eligibility
- b. SNAP E&T eligibility
- c. Identify which SNAP Participants are ‘Able Bodied Adults Without Dependents’ (ABAWD).

**The authority to determine eligibility for SNAP E&T services resides exclusively with ODHS.**

**2. Participant**

- a. For purposes of this Agreement, a SNAP participant is an individual who must:
  - (1) Be receiving SNAP benefits or has applied for SNAP benefits
  - (1) Be 16 years of age or older
  - (2) Not eligible for the TANF JOBS program due to one of the below statuses:
    - (a) Non-Needy Caretaker Relative
    - (b) Recipient of SSI/SSDI
- b. To be considered a SNAP E&T participant, an individual must knowingly volunteer for the SNAP E&T program, receive an orientation, assessment, and a case plan, as well as case management by the provider. In addition, they must be placed in an approved and appropriate SNAP E&T component that the provider administers, purchases, or maintains attendance records as required by ODHS.

**3. The County shall be responsible for the following:**

- a. County shall deliver the services specified in this Statement of Work. To be eligible to receive Agreement Services, the SNAP participant must be determined eligible for SNAP E&T services as determined by ODHS.
- b. County shall verify SNAP participant is SNAP E&T eligible by accessing the iMatchSkills tool. The iMatchSkills database will be used to collect participant information which may include SNAP eligibility, services received, or case plans developed.



- c. Documenting and entering timely and accurate program and participant information in the iMatchSkills database including but not limited to participant progress and attendance.
- d. Documenting and entering support services provided to participants in the iMatchSkills in accordance with the support services matrix updated and issued every FFY by the Central Office E&T team.
- e. Conducting orientations, individual assessments, and creating case plans for all individuals participating in County's E&T program
- f. Contacting participants through telephone, voicemail, written notes or other electronic means.
- g. Providing case management:
  - (1) Case management must be provided to every individual participating in a County's E&T program for **all** E&T components.
  - (2) Case management includes guiding, motivating, and supporting job seekers by continually assessing their needs and challenges, identifying resources, and advising on career and training opportunities.
  - (3) Case management includes tracking of case plan progress and making adjustments as needed.
  - (4) Case management must be completed no less than one time per month.

#### **4. Employment and Training (E&T) Services and Activity Components**

County and ODHS will collaborate to determine an agreed upon process for referring SNAP participants to SNAP E&T services. County shall provide the following services to eligible SNAP E&T participants:

##### **a. SNAP E&T Orientation**

The County shall provide an orientation to each potential SNAP E&T participant. The Orientation will provide an overview of the organization, programs, requirements, expectations of the SNAP E&T participant, County contact information, and services offered as part of the SNAP E&T program.

##### **b. SNAP E&T Assessment**

The County shall conduct an assessment for each potential or current SNAP E&T participant who has requested contracted SNAP E&T services from the County. The SNAP E&T assessment shall be a one-on-one meeting with the participant to identify strengths and challenges the participant may face in obtaining and maintaining employment. The assessment must include general information collected by the County about the SNAP E&T participant. This information will include:

- (1) Demographics
- (1) Educational Attainment
- (2) Basic Skills

- (3) Literacy
- (4) Work Experience
- (5) Public Benefits
- (6) Medical and disability considerations
- (7) Criminal background
- (8) Family composition
- (9) Housing circumstances
- (10) Childcare needs
- (11) Transportation needs
- (12) Cultural and religious considerations
- (13) Short and long-term goals

c. SNAP E&T Case Plan

- (1) The case plan is a written outline, developed together with the potential or current SNAP E&T participant and County staff, listing approved components submitted in the County's STEP proposal, that will be administered or purchased by the County. Appropriate components are identified during the assessment and are intended to reduce the effect of challenges to the SNAP E&T participant's employment, job retention, and wage enhancement.
- (2) The case plan minimally must include:
  - (a) Short and long-term goals
  - (b) Dates for activity completion
  - (c) Instructions on how and in what time frame to notify the County if the SNAP E&T participant cannot participate according to the plan.
  - (d) Participant signature with date, and
  - (e) At least one approved component as indicated in the County STEP proposal for each SNAP E&T participant
- (3) County shall use an agreed upon form for the E&T case plan for each SNAP E&T participant.
- (4) County shall provide information to the SNAP E&T participant regarding appropriate E&T services and activities. County shall also provide referrals, when available, to other SNAP E&T County's and community resources when appropriate for the SNAP E&T participant's case plan.

d. SNAP E&T Components

County shall only provide services for SNAP E&T participants with a case plan. SNAP E&T services shall be provided through specific, allowable E&T

components that have been approved by ODHS through the County's E&T STEP proposal.

County must offer at least one of the SNAP E&T job components listed from the menu of services described below:

(1) **Supervised Job Search Component:**

This component is available for participants who are work ready (as determined by assessment) and need assistance with job search. Supervised job search must have a case plan including oversight, tracking, review, and ongoing assessment. In addition, there must also be regular, or at least one time per month, check-ins to report on the job search progress or to adjust the case plan. All services must be provided in a State Approved Location.

Supervised Job Search-State Approved Locations:

County must identify all of the locations that supervised job search will be provided as specified in the STEP proposal. These locations will be reviewed and approved by ODHS and will be known as State Approved Locations. Once approved, locations are subject to ODHS review. Modifications to any State Approved Locations during the Federal Fiscal year must be submitted and approved by ODHS.

(2) **Job Search Training Component:**

A component which strives to enhance the job search skills of participants by providing instruction in job seeking techniques and increasing motivation and self-confidence. The component may consist of job placement services, resume writing workshops, interviewing skills, and learning how to use online job search tools. Job clubs are not allowed.

(3) **Job Retention Component:**

Services provided to SNAP E&T participants who have secured employment after participating in another SNAP E&T component and are no longer receiving SNAP benefits. This component is meant to help retain employment and to increase wage progression. This may include but is not limited to: training, skill building, case management, support services (such as work tools or clothing), etc. When providing this component, participants must receive at least one month of Job Retention services.

Job Retention 90 Day Time Frames:

- (a) The participant may receive up to 90 days of job retention services.
- (b) The 90 days begins when the SNAP benefits end.
- (c) The participant must have engaged in another SNAP E&T component within the previous 90 days.

If a participant becomes employed and is still receiving SNAP benefits, services must be provided under another appropriate component, instead of Job Retention.

(4) **Work Experience Component:**

A work component designed to improve the employability of participants through actual work experience and/or training, which does NOT include subsidized wages. Work experience assignments may not replace the employment of a regularly employed individual, and they must provide the same benefits and working conditions provided to regularly employed individuals performing comparable work for comparable hours. It is permissible to place E&T participants in work experience positions with private sector entities.

Note: SNAP E&T Work Experience is a different program than TANF JOBS Work Experience.

(5) **Internship Component:**

A planned, structured learning experience that takes place in a workplace for a limited period of time, which does NOT include subsidized wages. Although not required, Internships typically follow another training program, to create a hands-on practicum. The goal of an Internship is to increase occupational qualifications or to align with an educational program. Participants in this component are meant to gain exposure to a particular career.

(6) **On-the-Job Training Component:**

A work placement made through a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector, which does NOT include subsidized wages. An On-the-Job Training (OJT) contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. Requires unsubsidized employment after completion of OJT.

(7) **Pre-Apprenticeship/Apprenticeship Component:**

A combination of on-the-job training and related instruction in which workers learn the practical and theoretical aspects of a skilled occupation, which does NOT include subsidized wages.

Pre-Apprenticeship programs provide individuals with the basic and technical skills necessary to enter an apprenticeship program and should be directly linked to an apprenticeship program. They are designed to help participants decide if the trade or occupation is an appropriate fit for them and to increase the likelihood to be accepted into an apprenticeship

program. Pre-Apprenticeship programs are generally short-term, six to eight weeks in length.

Apprenticeship programs can be sponsored by individual employers, joint employer and labor groups, and/or employer associations.

Apprenticeships are strongly recommended to be certified by the Bureau of Labor and Industries (BOLI). Apprenticeship programs are generally two to four years long and usually result in a journey level certification.

**(8) Self-Employment Training Component:**

A curriculum or training which improves the employability of participants by providing training in setting-up and operating a small business or other self-employment ventures.

This may include but is not limited to: offering technical assistance in how to develop business plans, how to create financial marketing plans, how to access small business grants, etc.

Self-Employment Training is for participants with sound business ideas but who lack the skills and knowledge to successfully create and implement a plan for self-employment.

For additional Self-Employment Training guidance regarding Support Services, please see the Support Service Matrix.

**(9) Basic Education/Foundational Skills Instruction Component:**

Programs which offer academic instruction and education services below the postsecondary level. This component includes reading, writing, and speaking in English, mathematics, or support other activities necessary for the attainment of a secondary school diploma or its recognized equivalent. Completion of this component facilitates transition to postsecondary education and training and to subsequently obtain employment.

Such programs include Adult Basic Education (ABE), basic literacy, and high school equivalency (GED, TASC, HiSET, or other).

**(10) Career/Technical Education or other Vocational Training Component:**

Organized training at the post-secondary level which provides individuals with the academic and technical knowledge and skills necessary to prepare for further education and for careers in current or emerging employment sectors. Programs are primarily designed for those who are beyond the age of compulsory high school attendance. Ideally, such programs should be employer-driven and must lead to industry-recognized certificates or credentials.

**(11) Short-Term Training Component:**

Organized training at the post-secondary level which provides individuals with the academic and technical knowledge and skills necessary to prepare for further education and for careers in current or emerging employment

sectors. Programs are primarily designed for those who are beyond the age of compulsory high school attendance. Such programs should be employer-driven, but do not lead to industry-recognized certificates or credentials.

(12) **English Language Acquisition Component:**

A component designed to help English language learners achieve competence in reading, writing, speaking, and comprehension of the English language.

(13) **Integrated Education and Training (IET)/Bridge Programs Component:**

Programs which provide adult education and literacy activities concurrently and contextually with workforce preparation activities and workforce training for a specific occupation or group of occupations for the purpose of educational and career advancement.

Often, these programs are provided within an educational setting, such as a community college.

(14) **Work Readiness Training Component:**

Programs which provide adult education and literacy activities concurrently and contextually with workforce preparation activities and workforce training for a specific occupation or group of occupations for the purpose of educational and career advancement.

Often, these programs are provided within an educational setting, such as a community college.

(15) **Subsidized Employment Definition:**

Employment in the public or private sector where the employer receives a subsidy from SNAP E&T to cover up to 50% of the wages for the participant. Subsidized employment programs must:

- (a) Include sustained interactions with industry or professionals in a real world or simulated environment.
- (b) Foster firsthand engagement with the tasks required in a given career field.
- (c) Be part of a proven training plan with a clearly defined skills element.
- (d) Include an articulated and documented path to permanent, unsubsidized employment.
- (e) Be planned, structured, limited to 6 months, and consistent with all labor laws.
- (f) Pay at least the Oregon minimum wage.
- (g) Represent new opportunities that do not displace or replace

existing positions.

- i. Must be new slot reserved for SNAP E&T
- ii. Once per 12-month period

### **Subsidized Employment Components**

#### **(16) Work Experience with Subsidized Employment Component:**

A work component designed to improve the employability of participants through actual work experience and/or training, which includes subsidized wages. Work experience assignments may not replace the employment of a regularly employed individual, and they must provide the same benefits and working conditions provided to regularly employed individuals performing comparable work for comparable hours. It is permissible to place E&T participants in work experience positions with private sector entities.

Note: SNAP E&T Work Experience with Subsidized Employment is a different program than TANF JOBS Plus.

#### **(17) Internship with Subsidized Employment Component:**

A planned, structured learning experience that takes place in a workplace for a limited period of time, which includes subsidized wages. Although not required, Internships typically follow another training program, to create a hands-on practicum. The goal of an Internship is to increase occupational qualifications or to align with an educational program. Participants in this component are meant to gain exposure to a particular career.

#### **(18) On-the-job Training with Subsidized Employment Component:**

A work placement made through a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector, which does include subsidized wages. An On-the-job Training with Subsidized Employment (OJTSE) contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan.

Requires unsubsidized employment after completion of OJTSE.

#### **(19) Pre-Apprenticeship/Apprenticeship with Subsidized Employment Component:**

- (a) A combination of on-the-job training and related instruction in which workers learn the practical and theoretical aspects of a skilled occupation, which does include subsidized wages.

- (b) Pre-Apprenticeship programs provide individuals with the basic and technical skills necessary to enter an apprenticeship program and should be directly linked to an apprenticeship program. They are designed to help participants decide if the trade or occupation is an appropriate fit for them and to increase the likelihood to be accepted into an apprenticeship program. Pre-Apprenticeship programs are generally short-term, six to eight weeks in length.
  - (c) Apprenticeship programs can be sponsored by individual employers, joint employers, and labor groups, and/or employer associations. Apprenticeships are strongly recommended to be certified by the Bureau of Labor and Industries (BOLI). Apprenticeship programs are generally two to four years long and usually result in a journey level certification.
- e. SNAP E&T Support Services
  - (1) SNAP E&T support services are provided to enable SNAP E&T participants to cooperate with their SNAP E&T case plan and attain the goals contained therein. E&T support services shall be provided to defray SNAP E&T participant expenditures and other costs related directly to a service component as stipulated by the SNAP E&T participant's SNAP E&T case plan.
  - (2) All SNAP E&T support service payments must be issued in accordance with ODHS SNAP E&T guidelines.
  - (3) A list of support service payments shall accompany the quarterly County invoice in accordance with Quarterly E&T Billing Report, of this Agreement.

**5. Services for individuals 16 or 17 years of age**

When providing services to 16 or 17-year-old individuals, County must contact ODHS using the district specific SNAP E&T Navigator email box, including “Head of Household Status Verification” in the subject line to confirm head of household status.

- a. If the SNAP Participant is head of household on their SNAP benefit case, no other action is needed, and County may begin offering SNAP E&T services.
- b. If the SNAP Participant is NOT head of household, parental permission will be required by signing the ODHS form 3010. SNAP E&T services are not eligible to be provided until parental permission is granted. Parental permission will be obtained by ODHS and provided to the County through iMatchSkills.

In order to ensure compliance with federal regulation and County is not supplanting services County will review the following before engaging with 16- or 17-year-old individuals.

- a. Are the services being offered to the individual available by their local school district?



- (1) If yes, these services are **NOT** available for STEP reimbursement.
  - (2) If no, these services may be STEP eligible depending on the other answers.
- b. Do the services being offered conflict with school participation?
- (1) If yes, these services are **NOT** available for STEP reimbursement.
  - (2) If no, these services may be STEP eligible depending on the other answers.
- c. Do the services being offered lead directly to employment?
- (1) If yes, these services may be STEP eligible depending on the other answers.
  - (2) If no, these services are **NOT** available for STEP reimbursement.
- d. Do the services being offered include a dropout prevention program?
- (1) If yes, these services are **NOT** available for STEP reimbursement.
  - (2) If no, these services may be STEP eligible depending on the other answers.

## 6. **Civil Rights Training**

Civil Rights Training is required so that people involved in all levels of administration of programs that receive federal financial assistance understand civil rights related laws, regulations, procedures, and directives. The federal Food and Nutritional Services (FNS) and County will require ODHS administered Civil Rights training on an annual basis for any individuals that work with the SNAP program or recipients of SNAP benefits.

In addition, the following requirements must be met by the County:

- a. Displaying “And Justice for All Posters” visibly in workspaces;
- b. Civil Rights Training for all staff that serve SNAP participants as outlined above. County will be required to track the name of the staff person taking the training, the date the training is completed and passed and will retain these training records for a period of three years; and
- c. SNAP E&T programs must include both a funding statement and a nondiscrimination statement on all materials produced for public information, public education, and/or public distribution
  - (1) **The funding statements are as follows:**
    - (a) This project has been funded at least in part with Federal funds from the U.S. Department of Agriculture. The contents of this publication do not necessarily reflect the view or policies of the U.S. Department of Agriculture, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

- (b) For publications with minimal text or limited space, grantees may use one of the following abbreviated statements:
  - i. *Funding provided by United States Department of Agriculture.*
  - i. *Funding for research provided by United States Department of Agriculture.*
  - ii. *Funding for this project was provided by United States Department of Agriculture.*

**(2) The nondiscrimination statement is as follows:**

- (a) In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights; Room, 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider employer and lender.

- (b) For publications with minimal text or limited space, grantees may use the following abbreviated statement:

*USDA is an equal opportunity employer provider and lender.*

**Limited English Proficiency (LEP) Access**

Title VI of the Civil Rights Act of 1964 prohibits recipients of Federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin in any of their activities. Section 601 of Title VI, 42 U.S.C. § 2000d, provides “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

SNAP E&T Providers must have systems in place to provide access to non-English speaking SNAP E&T participants.

**7. Privacy and Confidentiality Training for iMatchSkills**

Privacy and confidentiality training is required for County to access the iMatchSkills tool. iMatchSkills is a mandatory component to the E&T program to verify SNAP eligibility and to track SNAP E&T participant’s components and outcomes.

**8. Mandatory Reporter Training**

As a contracted partner of ODHS/OHA Agency is a 24/7 mandatory reporter. This course will help County recognize and report abuse to children, seniors over age 65, people in

nursing facilities, and adults who receive mental health or developmental disabilities services. This training is a onetime requirement for anyone working with the County's SNAP E&T program.

**9. DHSOHA - ISPO - 2022 Information Security and Privacy Awareness Training**

This is an annual required course for all new ODHS and OHA staff, existing staff, Counties, interns, temps, volunteers and partners who login to ODHS/OHA computer systems or have access to agency data and information. The course introduces the trainees to privacy, security, HIPAA, and the importance of protecting information used in ODHS and OHA operations.

**10. Performance Reporting**

- a. County shall record, track, and compile any and all data monthly on SNAP E&T participant's engagement in the E&T STEP program and on County's progress in attaining the Agreement performance measures, as described in Section 8 "Agreement Performance Measures" of this Statement of Work. If the required data is not available in iMatchSkills, the County shall report this information to ODHS on a quarterly basis using the provided E&T Performance & Outcomes Report.
- b. County shall record, track and report support service expenditures to ODHS on a quarterly basis based on the Federal Fiscal Year. The report will include the name of the SNAP E&T participant for whom the issuance was made, the Social Security Number (SSN) or Job Seeker (JS) identification located in iMatchSkills attached to that individual, the amount of support service dollars expended for that individual, and the type of support service that was purchased.
- c. County may provide additional performance related information which illustrates E&T program success.
- d. All quarterly invoices, E&T Performance & Outcomes Reports, Quarterly Feedback Reports, and support service payments documents will be due to ODHS no later than the 30<sup>th</sup> day of the following month. Required reports will be designated each FFY by the E&T Team.

**11. Agreement Performance Measures**

- a. Target Number  
In the performance of the work required under this Agreement, County shall strive to attain the following targeted number of SNAP E&T participants served, in accordance with the approved criteria.
  - (1) For the period October 1, 2021 through September 30, 2022: Number of SNAP E&T participants Served – **120**
- b. Numbers Served Criteria
  - (1) SNAP E&T participants served reflect the number of SNAP E&T participants who, during the FFY period of October 1, 2021 through September 30, 2022, meet at least one of the criteria listed below:

- (a) Participate in the E&T orientation and E&T assessment.
  - (b) Develop an E&T case plan with County staff.
  - (c) Update an E&T case plan for new or additional components with County staff.
  - (d) Participate at least one hour in a program component.
  - (e) Receive support service payments for participation in a program component.
- (2) SNAP E&T participant engagement may be recounted during this time period if the participant engaged in:
- (a) Multiple E&T activities, or
  - (b) Multiple months.

**12. SNAP E&T Program Review**

County shall, upon request by ODHS, participate in ongoing SNAP E&T program review in the SNAP E&T program:

- a. An account of County progress in achieving the Agreement performance measures, as described in Section 11, “Agreement Performance Measures”, of this Statement of Work; and
- b. Technical assistance in the ODHS effort to increase the rate of employment, household income, family stability and self-sufficiency of SNAP E&T participants.

*[Remainder of page intentionally left blank]*

**13. County Assurance Statements:**

Assurance Statements: Please initial in the box on the right to indicate you have read and understand each statement.	
I. The County will implement and follow all applicable Federal laws, rules, and regulations outlined in this Agreement for civil rights compliance.	
II. When applicable, State Approved Locations must be submitted to ODHS for review and approval. This includes any changes to already approved locations during the FFY.	
III. E&T program changes outside the approved STEP proposal must be submitted to ODHS for review and approval prior to implementation during the FFY.	
IV. All reimbursements for costs of the E&T program must be submitted timely as outlined in this Agreement. Payments submitted outside the contracted FFY are not guaranteed for payment.	
V. Education and Training Components being offered by the County are not supplanting education services otherwise available to the SNAP E&T participant.	
County acknowledges guidelines and program requirements set forth in the SNAP E&T Provider Handbook which may not be listed in this Agreement.	

*[Remainder of page intentionally left blank]*

**EXHIBIT A**

**Part 2  
Payment and Financial Reporting**

**1. Payment Provisions.**

a. County shall not submit payment requests for, and ODHS will not pay, any amount in excess of the maximum compensation amount set forth in Section 3. (“Consideration”) of the General Provisions of this Contract. Payments for Services shall not exceed the amount assigned to the Budget Categories and time periods specified below.

(1) From October 1, 2021 through September 30, 2022:

Support Service Funds awarded for 100% Reimbursement\*: **\$21,600.00**

Administrative and Support Services Funds specified for 50%  
Reimbursement: **\$138,100.95**

Total Budget: **\$159,700.95**

*\*Funds awarded to County in their 2021/2022 application for 100% reimbursement of support service funds.*

(2) Any unused funding awarded in the FFY budget period cannot be allocated to a previous or subsequent FFY budget period.

b. Budgets are approved on an annual Federal Fiscal Year (FFY) basis. **Although the parties anticipate federal approval for subsequent FFYs, neither the amount nor required federal approval is guaranteed.** The parties understand and agree that federal approval may not be granted in sufficient time to authorize Services beginning October 1 for a new FFY and therefore, agree to establish the following process:

(1) Contracts and Contract amendments will be processed as soon as practicable after the parties have an agreed-upon budget for the next FFY. However, County shall not be authorized to provide Services beginning October 1 of the next FFY and shall not be entitled to payment for any such Services except as set forth in this subsection.

(2) If federal approval for the next FFY has not been received by ODHS prior to October 1, but ODHS has reasonable assurance that federal approval is forthcoming, the ODHS Contract Administrator will issue a Limited Notice to Proceed to County. This Limited Notice to Proceed will authorize County to provide Services for up to 31 days at the rate established for the new FFY. ODHS may issue additional Limited Notices to Proceed as necessary in ODHS’ sole discretion until federal approval has been received, or if federal approval is not forthcoming, ODHS may issue a Stop Work Order and Notice of Termination as set forth in Exhibit B.

- (3) Upon federal approval for the next FFY, the ODHS Contract Administrator will issue a Notice to Proceed to County. This Notice to Proceed will authorize the County to provide Services beginning October 1, or at such later date as specified in the Notice to Proceed, for the duration of the FFY, unless some other action is taken by ODHS to stop work or terminate the Contract sooner as specified in this Contract. A Notice to Proceed that is issued during the time a Limited Notice to Proceed is in effect will supersede the Limited Notice to Proceed.
- c. County's claims to ODHS for overdue payments on invoices are subject to ORS 293.462.

## 2. Invoices.

- a. County shall submit their quarterly invoice using the form prescribed by ODHS, and shall provide detailed, accurate, and timely information summarizing County Services provided to ODHS Participants during the quarter for which County is submitting the Billing Report.
- b. County shall also submit its Quarterly E&T Performance & Outcomes Report, using the form prescribed by ODHS, if the data is not available via iMatchSkills.
- c. A list of support service payments will be attached to County's quarterly invoice, supporting the actual cost reimbursement information for the support service section of the invoice. The list will include all required data as stated in Part 1(7)(b) of this Contract.
- d. All reports (quarterly invoices, Quarterly E&T Performance & Outcomes Report, Quarterly Feedback Report, and support service payments document) shall be submitted within **30 calendar days after the end of the Federal Fiscal Year service quarter**. County's quarterly invoice and Quarterly E&T Performance & Outcomes Reports, are due by the following dates:
  - (1) First Quarter (October, November, December) – January 31
  - (2) Second Quarter (January, February, March) – April 30
  - (3) Third Quarter (April, May, June) – July 31
  - (4) Fourth Quarter (July, August, September) – October 31
- e. All required documents and reports must be submitted before payment is issued to County.
- f. Any invoice received after the due date will be paid subject to federal funding availability.

*[Remainder of page intentionally left blank]*

## EXHIBIT A

### Part 3 Special Provisions

#### 1. Confidentiality of Client Information.

- a. All information as to personal facts and circumstances obtained by County on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- b. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- c. ODHS, County and any subcontractor will share information as necessary to effectively serve ODHS clients.

#### 2. Amendments.

- a. Subject to Section 2.c. below of this Exhibit A, Part 3, ODHS reserves the right to amend or extend the Agreement under the following general circumstances:
  - (1) ODHS may extend the Agreement for additional periods of time up to a total Agreement period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODHS' satisfaction with performance of the work or services provided by County under this Agreement.
  - (2) ODHS may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if ODHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b. ODHS further reserves the right to amend the Statement of Work for the following:
  - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
  - (2) Implement additional phases of the Work; or
  - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.



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

**3. County Requirements to Report Abuse of Certain Classes of Persons.**

- a. County shall comply with, and cause all employees to comply with, the applicable laws for mandatory reporting of abuse for certain classes of persons in Oregon, including:
  - (1) Children (ORS 419B.005 through 419B.045);
  - (2) Elderly Persons (ORS 124.055 through 124.065);
  - (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645);
  - (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
  - (5) Abuse of Individuals Living in State Hospitals (OAR 943-045-0400 through 945-045-0520)
- b. County shall make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above of this Exhibit A, Part 3, to Oregon’s Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233), as a requirement of this Agreement.
- c. County shall immediately report suspected child abuse, neglect or threat of harm to ODHS’ Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 through 419B.045). If law enforcement is notified, County shall notify the referring ODHS caseworker within 24 hours. County shall immediately contact the local ODHS Child Protective Services office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.
- d. County shall report suspected abuse of the elderly or abuse of patients in a medical or care facility immediately to ODHS’ Aging and People with Disabilities office or to a law enforcement agency.
- e. If known, the abuse report should contain the following:
  - (1) The name and address of the abused person and any people responsible for their care;
  - (2) The abused person’s age;
  - (3) The nature and the extent of the abuse, including any evidence of previous abuse;
  - (4) The explanation given for the abuse;
  - (5) The date of the incident; and

- (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

**4. Background Checks.** County shall verify that each of County’s employees, volunteers, and subcontractors, as a condition of working with ODHS-referred clients or having access to ODHS clients, client information, or client funds, has not been convicted of any of the following crimes: child or elder abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of each such person. For purposes of this paragraph, “substantial relation” means the crime for which the person has been convicted of involves conduct by the person that relates to functions the person may perform for County or places the person in a position to gain access to a client or a client’s personal information so as to place the person in a position to cause harm to a client. For example, a person who is convicted of fraud may not be permitted to work in a position that directs, controls or disburses moneys for this Agreement or has access to client finances or financial information.

**a.** County shall establish verification by:

- (1) Having County’s employee, volunteer, or subcontractor, apply for and receive a fingerprint-based national criminal records check from a local Oregon State Police (OSP) office, which will be shared with County; OR
- (2) Utilizing a fingerprint-based background check approval, provided within the last two years, by a federal or State of Oregon agency to demonstrate the County’s employee, volunteer, or subcontractor’s fitness to provide services under this Agreement; OR
- (3) Utilizing a third-party vendor accredited by the Professional Background Screeners Association (PBSA). The third-party vendor must provide a national criminal records check that includes review of criminal history from each state the individual has lived, studied or worked in and the National Sex Offender Public Website (NSOPW).

**b.** The following requirements apply to all background checks performed regardless of method (Section a.(1)-(3) above of this Exhibit A, Part 3) used:

- (1) Background checks must be completed prior to performing services under this Agreement, upon a promotion or a significant change in work duties, or if there is a reasonable basis to believe a new background check may be needed. Examples include, but are not limited to:
  - (a) Any indication of possible criminal or abusive behavior by an employee, volunteer or subcontractor;
  - (b) A lapse in working or volunteering in a position under the direction and control of County, but the individual is still considered in the position. For example, an extended period of leave by the individual due to sabbatical or military deployment.
  - (c) Discovery of incorrect processes or insufficient documentation for a previously conducted background check.

- (d) Federal or state regulations require a new background check.
  - (e) The County determines the need for a background check.
- (2) Background checks must be completed whenever there is a break in employment, volunteering, or subcontracting greater than 30 days. For example, an individual is laid off or quits due to the school year starting but returns to working or volunteering for the employer the following semester or summer.
  - (3) Existing employees, volunteers, and subcontractors are not required to have a new background check conducted at the time of Agreement extension by amendment, unless required by Section b.(1) above of this Section 4 (“Background Checks”).
  - (4) County shall require each of its employees, volunteers, and subcontractors receiving background checks to report to the County any and all new arrests, convictions, or investigations for any child protective service or adult protective service case within 5 business days after the new arrest, conviction or investigation took place.
    - (a) Within five days of such notification, the County is required to report to ODHS the employee, volunteer, or subcontractor’s new history.
    - (b) ODHS may request a new background check to reevaluate the ongoing fitness of the employee, volunteer, or subcontractor.
  - (5) County shall ensure all background checks and documentation are placed in the employee, volunteer, or subcontractor’s personnel file.
- c.** If the position of the County’s employee or subcontractor is paid in part or in whole by funds from the Centers for Medicare and Medicaid Services (CMS), the background check must also include review of the General Service Administration (GSA) System for Award Management (SAM), and the Social Security Administration (SSA) Death Masterfile. Any employee or subcontractor of County found excluded on SAM or listed on the SSA Death Masterfile shall not be permitted to work with ODHS clients or have access to ODHS clients, client information, or client funds.
  - d.** County shall determine after receiving the criminal records and NSOPW check, whether its employee, volunteer, or subcontractor has any of the convictions listed above or sex offender status, and whether these potentially disqualifying conditions pose a risk to working safely with ODHS clients. If County notes a conviction from any of the above listed crimes on the employee, volunteer, or subcontractor’s record, and County chooses to hire the employee or allow the volunteer or subcontractor to perform services under this Agreement, County shall confirm with ODHS in writing, the reasons for allowing the individual to perform services under this Agreement. These reasons shall address how the employee, volunteer, or subcontractor is presently suitable or able to work with ODHS clients in a safe and trustworthy manner. County shall ensure this

information, along with the employee, volunteer, or subcontractor's background check, is in the individual's personnel file.

Upon receiving such written notification from County, ODHS reserves the right to the final denial or approval of any County employee, volunteer, or subcontractor to provide services to ODHS clients under this Agreement. Unless ODHS rejects the employee, volunteer, or subcontractor to provide services to ODHS clients under this Agreement within seven business days from receiving such written notification from County, the County employee, volunteer, or subcontractor will be deemed approved by ODHS.

- e. The criminal records check procedures listed above also apply to County, its owners, managers, and board members regardless if any individual has access to ODHS clients, client information or client funds. County shall establish a personal personnel file and place each criminal records check in named file for possibility of future ODHS review and shall be maintained pursuant to Exhibit B, "Standard Terms and Conditions", Section 14, "Records, Maintenance, Access."
  - f. Changes to federal or state legislation and rule may impose additional requirements for background checks. These changes will be implemented by an amendment to this Agreement.
  - g. If ODHS determines there is a need for a new criminal records check, County shall provide the results of a new criminal records check to ODHS for review no more than 14 business days after ODHS's request.
5. **Equal Access to Services.** County shall provide equal access to covered services for both males and females under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.
6. **Media Disclosure.** County will not provide information to the media regarding a recipient of services purchased under this Agreement without first consulting the ODHS office that referred the child or family. County will make immediate contact with the ODHS office when media contact occurs. The ODHS office will assist County with an appropriate follow-up response for the media.
7. **Nondiscrimination.** County must provide services to ODHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language and other special needs of clients.

*[Remainder of page intentionally left blank]*

## EXHIBIT B

### Standard Terms and Conditions

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

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

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

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

**5. Funds Available and Authorized Clause.**

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

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

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

**7. Ownership of Intellectual Property.**

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

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

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

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



- c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
  - d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).
9. **ODHS Default.** ODHS shall be in default under this Agreement upon the occurrence of any of the following events:
- a. ODHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
  - b. Any representation, warranty or statement made by ODHS herein or in any documents or reports relied upon by County to measure performance by ODHS is untrue in any material respect when made.
10. **Termination.**
- a. **County Termination.** County may terminate this Agreement:
    - (1) For its convenience, upon at least 30 days advance written notice to ODHS;
    - (2) Upon 45 days advance written notice to ODHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
    - (3) Upon 30 days advance written notice to ODHS, if ODHS is in default under this Agreement and such default remains uncured at the end of said

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

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

**b. ODHS Termination.** ODHS may terminate this Agreement:

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

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

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

**11. Effect of Termination.**

**a. Entire Agreement.**

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

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

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

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

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

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

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

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

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

21. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, approved by the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
22. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
23. **Survival.** Sections 1, 4, 5, 6, 7, 10, 12, 13, 14, 15, 18, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
24. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.  
  
**ODHS:** Office of Contracts & Procurement  
635 Capitol Street NE, Suite 350  
Salem, OR 97301  
Telephone: 503-945-5818  
Facsimile: 503-378-4324
25. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
26. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
27. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the

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

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

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

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

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

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

## EXHIBIT C

### Subcontractor Insurance Requirements

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

### TYPES AND AMOUNTS

#### WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

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

#### COMMERCIAL GENERAL LIABILITY:

**Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.



**AUTOMOBILE LIABILITY INSURANCE:**

**Required**     **Not required**

Automobile Liability Insurance covering Contractor’s business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**PROFESSIONAL LIABILITY:**

**Required**     **Not required**

**Professional Liability insurance** covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor’s subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per claim. Annual aggregate limit shall not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor and Subcontractors shall provide continuous claims made coverage as stated below.

**NETWORK SECURITY AND PRIVACY LIABILITY:**

**Required**     **Not required**

**POLLUTION LIABILITY:**

**Required**     **Not required**

**EXCESS/UMBRELLA INSURANCE:**

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

**ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor’s insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

**ADDITIONAL INSURED:**

All liability insurance, except for Workers’ Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

**WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the ODHS or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the ODHS has received a waiver of subrogation endorsement from the Contractor or the Contractor’s insurer(s).

**CONTINUOUS CLAIMS MADE COVERAGE:**

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

- (i) Contractor’s completion and ODHS’s acceptance of all Services required under the Contract, or
- (i) ODHS or Contractor termination of this Contract, or
- (ii) The expiration of all warranty periods provided under this Contract.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

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

**NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 days’ written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by ODHS under this agreement and to provide updated requirements as mutually agreed upon by Contractor and ODHS.

**STATE ACCEPTANCE:**

All insurance providers are subject to ODHS acceptance. If requested by ODHS, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to ODHS’s representatives responsible for verification of the insurance coverages required under this Exhibit C.

**EXHIBIT D**

**Federal Terms and Conditions**

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

1. **Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
3. **Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.
4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, County certifies, to the best of the County's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or

employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

- b.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c.** County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- d.** This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e.** No part of any federal funds paid to County under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.
- f.** No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g.** The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction an any

legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

- h.** No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

**6. Resource Conservation and Recovery.** County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

**7. Audits.**

- a.** County shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
- b.** If County expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, County shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If County expends less than \$750,000 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, “Records Maintenance, Access”.

**8. Debarment and Suspension.** County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or Non-procurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension”. (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

**9. Pro-Children Act.** County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).

**10. Medicaid Services.** County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:

- a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR Part 431.107(b)(1) & (2).
- b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
- c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 subpart I.
- d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
- e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).

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

**12. Disclosures.**

- a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest

is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

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

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

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
  - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
  - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of

Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”

- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.

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



# DOCUMENT RETURN STATEMENT

Please complete the following statement and return with the completed signature page and the Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable.

If you have any questions or find errors in the above referenced Document, please contact the contract specialist.

**Document number:** \_\_\_\_\_, hereinafter referred to as "Document."

I, \_\_\_\_\_  
Name Title

received a copy of the above referenced Document, between the State of Oregon, acting by and through the Department of Human Services, the Oregon Health Authority, and

\_\_\_\_\_ by email.

**Contractor's name**

On \_\_\_\_\_,  
Date

I signed the electronically transmitted Document without change. I am returning the completed signature page, Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable, with this Document Return Statement.

\_\_\_\_\_  
Authorizing signature

\_\_\_\_\_  
Date

Please attach this completed form with your signed document(s) and return to the contract specialist via email.

October 28, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Federal Subrecipient Grant Amendment #1 with Central City Concern to continue service delivery of the Law Enforcement Diversion Program (LEAD) Amendment Value is \$297,272.68  
Partially funded with \$220,660.52 Clackamas County General Funds

<b>Purpose/Outcome</b>	Central City Concern will continue to provide case management services for individuals that meet LEAD program criteria. LEAD effectively targets individuals experiencing homelessness engaging in low-level criminal activity and helps them improve their circumstances and move toward safety and healing.
<b>Dollar Amount and Fiscal Impact</b>	Amendment #1 adds \$297,272.68 for a maximum award value of \$615,305.52 Partially funded with \$220,660.52 Clackamas County General Funds
<b>Funding Source</b>	U.S. Dept of Justice: Office of Justice Programs <ul style="list-style-type: none"> <li>Comprehensive Opioid, Stimulant and Substance Abuse Site-Based Program (COSSAP). Agreement No. 2020-AR-BX-0056 Catalogue of Federal Domestic Assistance (CFDA 16.838) (\$394,639)</li> </ul> Clackamas County General Fund <ul style="list-style-type: none"> <li>Affordable Housing PLP (\$220,666.52)</li> </ul>
<b>Duration</b>	Amendment #1 is effective October 1, 2021 and terminates on June 30, 2022
<b>Previous Board Action/Review</b>	Previous Board approval: 4/29/21 Board Issues date: October 19, 2021
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe
<b>Counsel Review</b>	This Subrecipient Grant agreement has been reviewed and approved by County Counsel on 9/28/21, AN
<b>Procurement Review</b>	Was the item processed through Procurement? No. Federal Sub-Recipient Grant amendment for continuation of services
<b>Contact Person</b>	Adam Freer 971-533-4929
<b>Contract No.</b>	H3S10046

**BACKGROUND:**

The Children, Family & Community Connections Division (CFCC) of the Health, Housing and Human Services Department requests the approval of a Federal Subrecipient Grant Amendment with Central City Concern (CCC). Since 2019, Clackamas County's Law Enforcement Division Program (LEAD) has improved community health and safety by diverting hundreds of individuals struggling with Substance Use Disorder from the criminal justice system to case management services. CFCC was awarded a three year U.S. Department of Justice grant to retain and enhance the LEAD program implemented by CCC. LEAD strives to connect systems and initiatives to advance a comprehensive, coordinated response to the crisis of substance abuse across the County. Central City Concern has forty years of expertise in delivering services to individuals who suffer from addiction, homelessness, and involvement with the criminal justice system.

*Healthy Families. Strong Communities.*

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

[www.clackamas.us](http://www.clackamas.us)

This Grant Amendment #1 is funded through U.S. Department of Justice and Clackamas County and provides funding for services starting on October 1, 2021 and terminates June 30, 2022. This agreement has a maximum value of \$615,305.52. This amendment allows for a continuation of services and will allow time to evaluate whether other potential sources of funding will be secured, which will then be factored into a longer-term agreement.

**RECOMMENDATION:**

Staff recommends the Board approve this Agreement and authorizes Tootie Smith to sign on behalf of Clackamas County.

Respectfully submitted,


*Mary Rumbaugh*

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

Federal Subrecipient Grant Amendment (FY 21-22)  
**H3S – Children, Family & Community Connections Division**

<u>Grant Agreement Number: 21-021</u>	<u>Board Order Number: 042921</u>
<u>Department/Division: H3S-CFCC</u>	<u>Amendment No. 1</u>
<u>Local Recipient: Central City Concern</u>	<u>Amendment Requested By: Adam Freer</u>

County Counsel Approved to Form:

 10/05/2021  
 Andrew Naylor Date

Changes:  Scope of Service  Agreement Budget  
 Agreement Time  Other:

**Justification for Amendment:**

This Subrecipient Agreement provides funding for Clackamas County’s Law Assisted Diversion program (LEAD).

This Amendment #1 is entered into between Central City Concern (“SUBRECIPIENT”) and Clackamas County (“COUNTY”) and shall become part of that Federal Subrecipient Grant Agreement (“Agreement”) entered into between both parties on January 1, 2021. The purpose of this Amendment #1 is to extend the term of the agreement to June 20, 2022 and to increase compensation.

Maximum compensation is increased by \$297,272.68 for a revised maximum of \$615,305.52.

This Amendment #1 adds additional funds for continued case management services for individuals that meet criteria for participation in the LEAD program. Under this Amendment, SUBRECIPIENT will continue to serve as the case management provider for the LEAD program.

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

**AMEND:**

- 1. Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective upon signature. Eligible expenses for this Agreement may be charged during the period beginning **January 1, 2021 to September 30, 2021**, a total of nine (9) months.

**TO READ:**

- 1. Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective upon signature. Eligible expenses for this Agreement may be charged during the period beginning **January 1, 2021 to June 30, 2022, a total of eighteen (18) months.**

**AMEND:**

- 4. Grant Funds.** The maximum, not to exceed, amount COUNTY will pay is **\$318,032.84** COUNTY’s funding for this Agreement is as follows:

Central City Concern - LEAD  
Federal Subrecipient Grant Agreement 21-021 Amend 1 Page 2 of 3

- US Department of Justice, Office of Justice Programs
  - Comprehensive Opioid, Stimulant, and Substance Abuse Site-Based Program (**\$214,000**). Agreement No. 2020-AR-BX-0056; CFDA 16.838.
- Clackamas County General Fund
  - Affordable Housing PLP (**\$104,032.84**)

**TO READ:**

**4. Grant Funds.** The maximum, not to exceed, amount COUNTY will pay is **\$615,305.52**  
COUNTY's funding for this Agreement is as follows:

- US Department of Justice, Office of Justice Programs
  - Comprehensive Opioid, Stimulant, and Substance Abuse Site-Based Program (**\$394,639**) Agreement No. 2020-AR-BX-0056; CFDA 16.838.
- Clackamas County General Fund
  - Affordable Housing PLP (**\$220,666.52**)

**AMEND:**

**10. Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:

- b) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.

**TO READ:**

**10. Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:

- b) ***Change in Key Personnel.*** ***SUBRECIPIENT is required to notify COUNTY, in writing and within 15 days, whenever there is a likely or actual change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include, but are not limited to: Executive Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.***

(continued on next page)

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**REPLACE: Exhibit B: Budget in its entirety with:**

<b>Exhibit B: BUDGET</b>					
<b>Contractor:</b> Central City Concern		<b>Address:</b> 232 NW 6th Avenue			
<b>Program:</b> LEAD		Portland, OR 97209			
<b>Contact Person:</b> Erica Thygesen, MA, MSW, CSWA, CADC III		<b>E-mail:</b> Erica.thygesen@ccconcern.org		971-295-0332	
<b>Contract Term:</b> 1/1/21 - 9/30/23	<b>YEAR 1</b>		<b>YEAR 2</b>		
	1/1/21-9/30/21		10/1/21-6/30/22		
<b>Budget Category</b>	<b>Approved Budget (COSSAP)</b>	<b>Approved Budget (County GF)</b>	<b>Approved Budget (COSSAP)</b>	<b>Approved Budget (County GF)</b>	<b>Total Budget</b>
<b><u>Personnel and Fringe</u></b>					
Program Manager (1.0 FTE)	\$ 17,685.10	\$ 5,895.03	\$ 28,335.32	\$ 20,239.48	\$ 72,154.93
Case Manager (3.0 FTE)	\$ 101,401.68	\$ 33,800.56	\$ 75,431.58	\$ 29,012.15	\$ 239,645.97
FICA Taxes (@7.5%)	\$ 6,698.63	\$ 5,210.05	\$ 7,782.52	\$ 3,693.87	\$ 23,385.07
Unemployment Taxes (@1.75%)	\$ 1,563.01	\$ 1,215.67	\$ 1,815.92	\$ 861.90	\$ 5,456.50
Workers compensation insurance (@.80%)	\$ 714.52	\$ 555.74	\$ 830.14	\$ 394.01	\$ 2,494.41
Health Insurance	\$ 25,525.50	\$ 8,508.50	\$ 19,694.34	\$ 8,349.68	\$ 62,078.02
Life & Disability Insurance (@1.00%)	\$ 893.15	\$ 694.67	\$ 1,037.67	\$ 492.52	\$ 3,118.01
403(b) Match (@4.50%)	\$ 4,019.18	\$ 3,126.03	\$ 4,669.51	\$ 2,216.32	\$ 14,031.04
<b>Total Personnel and Fringe</b>	<b>\$ 158,500.77</b>	<b>\$ 59,006.25</b>	<b>\$ 139,597.00</b>	<b>\$ 65,259.93</b>	<b>\$ 422,363.95</b>
<b><u>Program costs</u></b>					
Client Transportation	\$ 7,141.14	\$ 1,558.86	\$ 6,655.50	\$ -	\$ 15,355.50
Client Food		\$ 2,000.00		\$ 1,530.00	\$ 3,530.00
Program Expense - Client Rent & Related		\$ 7,800.00		\$ 5,967.00	\$ 13,767.00
Program Rent - Managed Housing		\$ 250.00		\$ 191.25	\$ 441.25
Support Materials		\$ 4,900.00		\$ 3,872.50	\$ 8,772.50
Health Services Allocation		\$ 13,200.00		\$ 10,771.20	\$ 23,971.20
Furnishings		\$ 702.00		\$ 954.72	\$ 1,656.72
Medical Supplies		\$ 200.00		\$ 204.00	\$ 404.00
Medicine		\$ 150.00		\$ 150.00	\$ 300.00
Office Supplies	\$ 600.00		\$ 816.00		\$ 1,416.00
Printing	\$ 40.00		\$ 54.40		\$ 94.40
Telephone	\$ 2,300.00		\$ 2,346.00		\$ 4,646.00
Vehicle Gas & Oil	\$ 1,000.00		\$ 816.00		\$ 1,816.00
Vehicle Leases	\$ 6,800.00		\$ 1,241.55	\$ 4,309.99	\$ 12,351.54
Vehicle Repairs & Maintenance	\$ 500.00			\$ 510.00	\$ 1,010.00
Rent - External	\$ 3,500.00			\$ 6,800.00	\$ 10,300.00
Employee Education	\$ 2,000.00		\$ 2,176.00		\$ 4,176.00
Employee Professional Licenses	\$ 1,100.00		\$ 1,196.80		\$ 2,296.80
Employee Morale		\$ 500.00		\$ 680.00	\$ 1,180.00
EE Parking, Mileage, Transport	\$ 2,000.00		\$ 1,632.00		\$ 3,632.00
Employee Travel	\$ 201.38		\$ 205.41		\$ 406.79
<b>Total Program Costs</b>	<b>\$ 27,182.52</b>	<b>\$ 31,260.86</b>	<b>\$ 17,139.66</b>	<b>\$ 35,940.66</b>	<b>\$ 111,523.70</b>
<b>Total Direct Costs</b>	<b>\$ 185,683.29</b>	<b>\$ 90,267.11</b>	<b>\$ 156,736.66</b>	<b>\$ 101,200.59</b>	<b>\$ 348,204.36</b>
<b><u>Indirect Costs</u></b>					
15.25% Federal Indirect Rate	\$ 28,316.70	\$ 13,765.73	\$ 23,902.34	\$ 15,433.09	\$ 53,101.16
<b>Total Budget</b>	<b>\$ 214,000.00</b>	<b>\$ 104,032.84</b>	<b>\$ 180,639.00</b>	<b>\$ 116,633.68</b>	<b>\$ 615,305.52</b>

Central City Concern - LEAD  
Local Subrecipient Grant Agreement – CFCC 10046 Amend 1 Page 1 of 3

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment #1 to be executed by their duly authorized officers.

**AGENCY**

**Central City Concern**  
Attn: Legal Affairs  
232 NW 6<sup>th</sup> Street  
Portland, Oregon 97209  
503-294-1681  
contracts@ccconcern.org

**CLACKAMAS COUNTY**

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

DocuSigned by:  
By: Sean Hubert 10/4/2021  
Sean Hubert Date  
Vice-President & Strategy Officer

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Tootie Smith Date  
Clackamas County Board Chair



October 28, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval to accept funding from the State of Oregon Criminal Justice Commission (CJC) for Specialty Court Program – Mental Health Court. Funding agreement is for \$257,801.

No County General Funds are involved.

<b>Purpose/Outcomes</b>	Improve the legitimacy, efficiency, and effectiveness of the state and local criminal justice system. Health Centers Division intends to utilize funds to support the existing Mental Health Court program.
<b>Dollar Amount and Fiscal Impact</b>	The maximum agreement value is \$257,801. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	State of Oregon Criminal Justice Commission (CJC)
<b>Duration</b>	Effective July 1, 2021 and terminates June 30, 2023
<b>Previous Board Action</b>	July 1, 2021 A.21: Approval to Apply
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Improve community safety and health</li> <li>2. Ensure safe, healthy and secure communities by investing funds in treatment, housing, and other supportive services to participants.</li> </ol>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. 10/05/21</li> <li>2. KR</li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></li> <li>2. This is a direct procurement of a grant award.</li> </ol>
<b>Contact Person</b>	Deborah Cockrell, Health Centers Division Director – 503-742-5495
<b>Contract No.</b>	10221

**BACKGROUND:**

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval to accept award SC-23-004 from the State of Oregon Criminal Justice Commission (CJC). CCHCD has been a recipient of this biennial funding for multiple cycles. This renewal of funding continues the financial

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Page 2 Staff Report  
October 28, 2021  
Contract # 10221

investment into the existing Clackamas County Mental Health Treatment program and will help fund treatment, housing, and other supportive services to participants.

The award has a maximum value of \$257,801. It is effective July 1, 2021 and terminates June 30, 2023.

**RECOMMENDATION:**

Staff recommends the Board approval.

Respectfully submitted,

*Mary Rumbaugh*

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

CRIMINAL JUSTICE COMMISSION  
SPECIALTY COURTS GRANT PROGRAM  
GRANT AGREEMENT

885 Summer Street NE  
Salem, OR 97301

This Grant Agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Criminal Justice Commission, hereafter referred to as “CJC,” and **Clackamas County**, hereinafter referred to as “Grantee,” and collectively referred to as the “Parties.” This Agreement shall become effective on the later of July 1, 2021 or the date when this Agreement is fully executed and approved as required by applicable law.

**1. Grant.** In accordance with the terms and conditions of this Agreement, CJC shall provide Grantee an amount not to exceed \$257,801 (the “Grant Funds”) to assist Grantee in implementing the project described in Exhibits A and B (the “Project”) during the period beginning on the Project Start Date and ending on the Project End Date (the “Project Period”), as those dates are specified in Exhibit A. The Grant Funds may be used by Grantee solely for Eligible Costs (as described in Section 4.a) incurred by Grantee within the line items of the Project Budget (set forth in Exhibit A) during the Project Period. CJC’s obligation to disburse Grant Funds under this Agreement shall end 45 days after the Project End Date.

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

- Exhibit A: **Project Description and Budget**
- Exhibit B: **Project Goals and Objectives**
- Exhibit C: **Sub-agreement Insurance Requirements**

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

**3. Reports.** Grantee shall submit the reports required by this section.

**a. Progress Reports.** Grantee shall submit to CJC reports each quarter during Project implementation as specified in Exhibit B as well as such other quarterly reports and information on the Project as CJC may reasonably request (collectively, “Progress Reports”). Progress Reports must be received by CJC no later than October 15, January 15, April 15 and July 15 for the prior calendar quarter. Additionally, Grantee shall submit to CJC no later than January 15 an annual Progress Report for the prior year that describes, in a narrative fashion, Grantee’s progress in meeting the Project’s objectives and any remedial actions necessary if

those objectives have not been met in any respect. Grantee must receive prior approval from CJC to submit a Progress Report after its due date.

**b. Requests for Reimbursement.** Grantee shall submit to CJC a Request for Reimbursement (“RFR”) each quarter for reimbursement of Eligible Costs incurred during the prior calendar quarter. Each RFR must include supporting documentation for all Eligible Costs for which Grantee is seeking reimbursement. RFRs must be received by CJC no later than October 15, January 15, April 15, and July 15; provided, however, that the final RFR must be submitted no later than the earlier of 30 days after completion of the Project or 15 days after the Project End Date. Failure to submit an RFR by the due date could result in a loss of reimbursement for costs incurred during that quarter. Grantee must receive prior approval from CJC to submit an RFR after its due date.

#### **4. Disbursement and Recovery of Grant Funds.**

**a. Disbursement Generally.** Subject to Section 4.b, CJC shall reimburse, on a quarterly basis and within the line items of the Project Budget, Eligible Costs incurred in carrying out the Project, up to the amount of Grant Funds specified in Section 1. Reimbursements shall be made by CJC within 30 days of CJC’s approval of an RFR. “Eligible Costs” are the necessary and reasonable costs incurred by Grantee (or a subgrantee or subrecipient under a Sub-agreement) during the Project Period in implementation of the Project and that are allocable thereto and that are not excluded from reimbursement by CJC, either by this Agreement or by exclusion as a result of financial review or audit, subject to the following requirements and limitations:

- i.** Reimbursement rates for travel expenses shall not exceed those allowed by the Oregon travel policy, available at <http://www.oregon.gov/das/Financial/Acctng/Pages/Travel.aspx>. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the times, dates, and places of travel, and the actual expenses or authorized rates incurred. CJC will reimburse travel expenses only after the travel actually occurs. By way of example only, CJC will not reimburse the costs of an airplane ticket unless and until the ticketed air travel has actually occurred.
- ii.** When requesting reimbursement for equipment costing over \$5,000, the Grantee must provide a description of the equipment, purchase price, date of purchase, and identifying numbers if any.

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

- i.** CJC has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii.** Grantee is in compliance with the terms of this Agreement.
- iii.** Grantee's representations and warranties set forth in Section 5 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- iv.** All Progress Reports due on or before the date of disbursement have been completed and submitted to CJC.
- v.** Grantee has provided to CJC a RFR in accordance with Section 3.b. hereof.

**5. Representations and Warranties of Grantee.** Grantee represents and warrants to CJC as follows:

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

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

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

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

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

**6. Records Maintenance and Access; Audit.**

**a. Records, Access to Records and Facilities.** Grantee shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, state minimum standards for audits of municipal corporations. Grantee shall ensure that each of its subgrantees and subrecipients complies with these requirements. CJC, the Secretary of State of the State of Oregon (the “Secretary”), and their duly authorized representatives shall have access to the books, documents, papers and records of Grantee that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, CJC, the Secretary, USDOJ and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Grantee shall permit authorized representatives of CJC and the Secretary to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Grantee as part of the Project, and any transportation services rendered by Grantee.

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

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

## 7. Grantee Sub-agreements and Procurements

a. **Sub-agreements.** Grantee may enter into agreements with subgrantees and subrecipients (“Sub-agreements”) for implementation of portions of the Project. Grantee shall notify CJC of each Sub-agreement and provide CJC with a copy of a Sub-agreement upon request by CJC. Any material breach of a term or condition of a Sub-agreement relating to Grant Funds provided under this Agreement must be reported by Grantee to CJC within ten (10) days of its discovery.

b. **Sub-agreement indemnity; insurance.**

*Each Grantee Sub-agreement shall require each other party to such Sub-agreement, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to indemnify, defend, save and hold harmless the CJC and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys’ fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to the Sub-agreement or any of such party’s officers, agents, employees or contractors (“Claims”). It is the specific intention of the Parties that CJC shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the CJC, be indemnified by the other party to the Sub-agreement from and against any and all Claims.*

Any such indemnification shall also provide that neither the other party to such Sub-agreement nor any attorney engaged by such party shall defend a Claim in the name of the State of Oregon or an agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that the other party to such Sub-agreement is prohibited from defending State or that such other party is not adequately defending State’s interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against the other party to such Sub-agreement if State elects to assume its own defense.

Grantee shall require each other party to each of its Sub-agreements, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

c. **Procurements.**

i. Grantee shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules.

ii. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. Justification must be provided to CJC for any non-competitive or sole-source procurement. Justification should include a description of the equipment, materials or services procured, an explanation of why it was necessary to procure noncompetitively, time constraints and any other pertinent information. All sole source procurements in excess of \$100,000 must receive prior written approval from CJC in addition to any other approvals required by law applicable to Grantee. Intergovernmental agreements between units of government are excluded from this requirement to obtain CJC approval of sole source procurements.

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

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

a. Grantee fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein; or

b. Any representation, warranty or statement made by Grantee herein or in any documents or reports relied upon by CJC to monitor implementation of the Project, the use of the Grant Funds or the performance by Grantee is untrue in any material respect when made.

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

## **10. Termination**

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

- i. Grantee fails to implement the Project during the Project Period or commencement or continuation of the Project by Grantee is, for any reason, rendered improbable, impossible, or illegal; or
- ii. Grantee is in default under this Agreement and has failed to cure the default within the time period specified in Section 9; or
- iii. Grantee takes an action without the approval of CJC that, under the provisions of this Agreement, requires the approval of CJC; or
- iv. CJC fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement; or
- v. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
- vi. The Project would not produce results commensurate with the further expenditure of funds.

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

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

**c. Effect of Termination.** Upon termination of this Agreement, CJC may end all further disbursements of Grant Funds; provided, however, that if this Agreement is terminated under Sections 10.a.iv, 10.a.v, 10.a.vi, or 10.b, CJC will disburse Grant Funds to cover Eligible Costs incurred by Grantee prior to termination that CJC would otherwise be required to reimburse under the terms and conditions of this Agreement had the Agreement not been terminated. Termination of this Agreement shall not affect Grantee's obligations under this Agreement or CJC's right to enforce this Agreement against Grantee in accordance with its terms, with respect to Grant Funds actually received by Grantee or with respect to portions of the Project actually implemented. Specifically, but without limiting the generality of the preceding sentence, Sections 6 and 11 shall survive termination of this Agreement.



## 11. GENERAL PROVISIONS

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

With respect to a Third Party Claim for which CJC is jointly liable with Grantee (or would be if joined in the Third Party Claim ), CJC 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 Grantee in such proportion as is appropriate to reflect the relative fault of the CJC on the one hand and of the Grantee 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 CJC on the one hand and of Grantee 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. CJC’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 CJC had sole liability in the proceeding.

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

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

**c. Amendments; budget changes.** This Agreement may be amended only by a written instrument signed by both Parties and approved as required by applicable law. Grantee may propose changes to the Project Budget in Exhibit A that do not increase the total budget amount. If Grantee's proposed changes do not alter any line item in the Project Budget by more than ten percent, the proposed changes to the Project Budget will be effective upon written approval by CJC delivered to Grantee as provided in Section 11.f. All other changes to the Project Budget must be implemented through a formal amendment to this Agreement before the changes become effective.

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

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

**f. Notices.** Except as otherwise expressly provided in this Agreement, any notices to be given by a Party to the other Party hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same by registered or certified mail, postage prepaid, to Grantee Contact or CJC Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 11.f. Any notice personally delivered shall be deemed to be given when actually delivered. Any notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against CJC, such facsimile transmission must be confirmed by telephone notice to CJC Contact. Any notice by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any notice by registered or certified mail shall be deemed to be given three (3) days after mailing. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed notices under this Section unless receipt by the other Party is expressly acknowledged in writing by the receiving party.

**g. Work Product.** To the extent it has the necessary rights, Grantee hereby grants to CJC a non-exclusive, irrevocable, perpetual, royalty-free, license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display for governmental purposes, all documents, reports and works of authorship created, produced or obtained as part of or in connection with the Project ("Work Product"). Grantee shall deliver copies of Work

Product to CJC upon request. In addition, if applicable law requires that CJC or Grantee grant to the United States a license to any intellectual property created, produced or obtained as part of or in connection with the Project, or if applicable law requires that the CJC or the United States own such intellectual property, then Grantee shall execute such further documents and instruments as CJC may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or CJC.

**h. Governing Law, Consent to Jurisdiction.**

**i.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

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

**iii.** Notwithstanding Section 11.h.ii above, if a Claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 11.h.iii applies to a Claim brought against CJC or any other agency or department of the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 11.h.iii is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

**i. Compliance with Law.** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project. Without limiting the generality of the foregoing, Grantee expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

**j. Insurance; Workers' Compensation.** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than

\$500,000 must be included. Grantee shall ensure that each of its subgrantees and subrecipients complies with these requirements.

**k. Independent Contractor.** Grantee shall implement the Project as an independent contractor and not as an agent or employee of CJC. Grantee has no right or authority to incur or create any obligation for or legally bind CJC in any way. CJC cannot and will not control the means or manner by which Grantee implements the Project, except as specifically set forth in this Agreement. Grantee is responsible for determining the appropriate means and manner of implementing the Project. Grantee acknowledges and agrees that Grantee is not an “officer”, “employee”, or “agent” of CJC, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

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

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

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

*The signatures of the parties follow on the next page.*

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

**Approved by Grantee**

---

Signature of Grantee Date

---

Name/Title

---

Federal Tax ID Number

---

State Tax ID Number

**Approved by Criminal Justice Commission**

---

Kenneth Sanchagrin, Executive Director Date

**Approved for Legal Sufficiency**

---

Approved for Legal Sufficiency by AAG Sam Zeigler by email dated 9/22/21

CJC Contact  
CJC Grant Administrator  
Rachel McArthur  
885 Summer St. NE  
Salem, OR 97301-2524  
rachel.mcarthur@oregon.gov  
(503) 378-2655

Grantee Contact  
NAME  
ADDRESS  
ADDRESS  
EMAIL  
PHONE

## EXHIBIT A

### Project Description and Budget

The goal of the Criminal Justice Commission's *Specialty Court Grant Program* is to financially support Oregon specialty courts. Oregon specialty courts are those courts, programs and systems identified in Oregon Laws 2013, Chapter 649, Section 39. The specialty courts are designed to address the root causes of criminal activity by offering non-violent offenders an alternative to incarceration. Oregon's best practice standards applicable to the specialty courts are available at <http://www.oregon.gov/cjc/specialtycourts/Documents/family/OregonTreatmentCourtStandards.pdf> and are incorporated herein by reference ("Best Practices").

This Grant Agreement funds the **Clackamas County Mental Health Court** to address the needs of adults who are involved with the criminal justice system, with the goal of providing the opportunity to divert them from prison. Grantee shall administer the Grant Funds provided under this Grant Agreement to support the operation, substantially in accordance with the Best Practices, of the **Clackamas County Mental Health Court**.

Project Start Date: July 1, 2021

Project End Date: June 30, 2023

GRANT #: SC-23-004

GRANTEE PROGRAM CONTACT: Jennifer Rees

GRANTEE FISCAL CONTACT: INSERT NAME

EMAIL: [jrees@clackamas.us](mailto:jrees@clackamas.us)

EMAIL: INSERT EMAIL

TELEPHONE: 503-722-6502

TELEPHONE: INSERT NO.

#### BUDGET SUMMARY:

	Grant Funds Requested
Personnel	\$0
Contractual Personnel Services	\$0
Drug Testing	\$0
Medical Needs	\$0
Other Participant Supports	\$222,400
Sanction Costs	\$0
Training and Travel	\$10,000
Evaluation	\$0
Indirect Costs	\$25,401
Total	\$257,801

FUNDING BREAKDOWN:

<b>A</b>	<b>Total Project Cost</b>	<b>\$ 257,801</b>
B	Federal Funds	\$0
C	Lottery Funds	\$0
D	General Funds	\$257,801
E	Other Funds	\$0

## **EXHIBIT B**

### **Project Goals and Objectives**

The goal of the Grant Program is to financially support specialty courts serving adults, juveniles, veterans, and families. Specialty courts have demonstrated positive cost-effective results for people struggling with substance use disorder through recidivism outcomes by way of interdisciplinary team collaboration, court-directed treatment, and compliance.

All Specialty Court Grant Program awards require recipients to submit progress reports quarterly through OJD's Specialty Court Case Management System (SCMS) <https://scms.oregon.gov> and CJC's grant administration website <https://cjc-grants.smapply.io/>. Grantees shall complete and submit progress reports that contain all of the requested data.

#### **1. SCMS CJC State Report**

- a. All participant related tracking information in SCMS
- b. Complete for the quarter no later than the 15<sup>th</sup> of the month following the end of the quarter.

#### **2. Semi-Annual Progress Report**

- a. Court Name
- b. Court Type
- c. What is working well? (Narrative, 150 words)
- d. What is challenging? (Narrative, 150 words)
- e. The Specialty Court Grant Program funds are one-time funding that cannot be rolled over into future grant periods. At the end of the grant period any unspent funds are returned to Oregon's General Fund. What is the court's biggest barrier to spending all of the grant dollars awarded? (Narrative, 50 words)
- f. What is the court doing to address any barriers to spending all of the grant dollars awarded? (Narrative, 300 words)
- g. What is the court doing to address any barriers to maintaining monthly participant numbers at or near capacity? Capacity means the number of participants the program can serve at one time, regardless of phase. (Narrative, 150 words)
- h. If the court did not meet Oregon Specialty Court Standards, what is the court doing to improve? Please identify the standard and what work is being done to move towards meeting the standard. (Narrative, 300 words)
- i. What does the court need technical assistance or support with from CJC? (Narrative, 150 words)



## EXHIBIT C

### Sub-agreement Insurance Requirements

Grantee shall require each other party to a Sub-agreement that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, CERTIFICATES OF INSURANCE, and NOTIFICATION OF CHANGE OR CANCELLATION before the subgrantee performs under Sub-agreement, and ii) maintain the insurance in full force throughout the duration of the Sub-agreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to CJC. Grantee shall not authorize a subgrantee to begin work under a Sub-agreement until the insurance is in full force. Thereafter, Grantee shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Grantee shall incorporate appropriate provisions in the Sub-agreements permitting it to enforce subgrantee compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Sub-agreement as permitted by the Sub-agreement or pursuing legal action to enforce the insurance requirements. In no event shall Grantee permit a subgrantee to work under a Sub-agreement when the Grantee is aware that the subgrantee is not in compliance with the insurance requirements.

#### TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Workers' Compensation Insurance as required by applicable workers' compensation laws for persons performing work under a Sub-agreement including Employers' Liability Insurance with limits not less than \$500,000 each accident.

#### ii. PROFESSIONAL LIABILITY

Required by CJC    Not required by CJC.

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Sub-agreement, in an amount not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the subgrantee shall provide Tail Coverage as stated below.

#### iii. COMMERCIAL GENERAL LIABILITY.

Required by CJC    Not required by CJC.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to CJC. This insurance shall include personal injury liability, products and completed operations and contractual liability coverage for the indemnity provided under

the Sub-agreement. Coverage shall be written on an occurrence form basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

iv. AUTOMOBILE LIABILITY.

Required by CJC    Not required by CJC.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage.

ADDITIONAL INSURED. The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, CJC, and their officers, employees and agents as Additional Insureds but only with respect to the activities to be performed under the Sub-agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance is on a "claims made" basis and does not include an extended reporting period of at least 24 months, the subgrantee shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Sub-agreement, for a minimum of 24 months following the later of : (i) the subgrantee's completion and Grantee's acceptance of all services required under the Sub-agreement or, (ii) the expiration of all warranty periods provided under the Sub-agreement.

CERTIFICATE(S) OF INSURANCE. Grantee shall obtain from the subgrantee a certificate(s) of insurance for all required insurance before the subgrantee performs under the Subagreement. The certificate(s) list the State of Oregon, its officers, employees and agents as a Certificate holder and as Additional Insured, specify that subgrantee shall pay for all deductibles, self-insured retention and self-insurance, if any, that all coverage shall be primary and non-contributory with any other insurance and self-insurance, and confirm that either an extended reporting period of at least 24 months is provided on all claims made policies or that tail coverage is provided. As proof of insurance, CJC has the right to request copies of the certificate(s) or insurance policies relating to the insurance requirements in this Agreement.

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

INSURANCE REQUIREMENT REVIEW. Grantee agrees to periodic review of insurance requirements by CJC under this agreement and to provide updated requirements as mutually agreed upon by Grantee.



October 28, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval to accept funding from the State of Oregon Criminal Justice Commission (CJC) for Specialty Court Program – DUII Court. Funding agreement is for \$71,186.  
No County General Funds are involved.

<b>Purpose/Outcomes</b>	Improve the legitimacy, efficiency, and effectiveness of the state and local criminal justice system. Health Centers Division intends to utilize funds to support the existing DUII Treatment Court program.
<b>Dollar Amount and Fiscal Impact</b>	The maximum agreement value is \$71,186. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	State of Oregon Criminal Justice Commission (CJC)
<b>Duration</b>	Effective July 1, 2021 and terminates June 30, 2023
<b>Previous Board Action</b>	July 1, 2021 A.23: Approval to Apply
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Improve community safety and health</li> <li>2. Ensure safe, healthy and secure communities by investing funds in treatment, housing, and other supportive services to participants.</li> </ol>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. 10/05/21</li> <li>2. KR</li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></li> <li>2. This is a direct procurement of a grant award.</li> </ol>
<b>Contact Person</b>	Deborah Cockrell, Health Centers Division Director – 503-742-5495
<b>Contract No.</b>	10220

**BACKGROUND:**

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval to accept award SC-23-003 from the State of Oregon Criminal Justice Commission (CJC). This award will fund an expansion of treatment court services within Health Centers to include the DUII Treatment Court program and help fund treatment, housing and other supportive services to participants.

*Healthy Families. Strong Communities.*

Page 2 Staff Report  
October 28, 2021  
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The award has a maximum value of \$71,186. It is effective July 1, 2021 and terminates June 30, 2023.

**RECOMMENDATION:**

Staff recommends the Board approval.

Respectfully submitted,

*Mary Rumbaugh*

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

CRIMINAL JUSTICE COMMISSION  
SPECIALTY COURTS GRANT PROGRAM  
GRANT AGREEMENT

885 Summer Street NE  
Salem, OR 97301

This Grant Agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Criminal Justice Commission, hereafter referred to as “CJC,” and **Clackamas County**, hereinafter referred to as “Grantee,” and collectively referred to as the “Parties.” This Agreement shall become effective on the later of July 1, 2021 or the date when this Agreement is fully executed and approved as required by applicable law.

**1. Grant.** In accordance with the terms and conditions of this Agreement, CJC shall provide Grantee an amount not to exceed \$71,186 (the “Grant Funds”) to assist Grantee in implementing the project described in Exhibits A and B (the “Project”) during the period beginning on the Project Start Date and ending on the Project End Date (the “Project Period”), as those dates are specified in Exhibit A. The Grant Funds may be used by Grantee solely for Eligible Costs (as described in Section 4.a) incurred by Grantee within the line items of the Project Budget (set forth in Exhibit A) during the Project Period. CJC’s obligation to disburse Grant Funds under this Agreement shall end 45 days after the Project End Date.

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

- Exhibit A: **Project Description and Budget**
- Exhibit B: **Project Goals and Objectives**
- Exhibit C: **Sub-agreement Insurance Requirements**

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

**3. Reports.** Grantee shall submit the reports required by this section.

**a. Progress Reports.** Grantee shall submit to CJC reports each quarter during Project implementation as specified in Exhibit B as well as such other quarterly reports and information on the Project as CJC may reasonably request (collectively, “Progress Reports”). Progress Reports must be received by CJC no later than October 15, January 15, April 15 and July 15 for the prior calendar quarter. Additionally, Grantee shall submit to CJC no later than January 15 an annual Progress Report for the prior year that describes, in a narrative fashion, Grantee’s progress in meeting the Project’s objectives and any remedial actions necessary if

those objectives have not been met in any respect. Grantee must receive prior approval from CJC to submit a Progress Report after its due date.

**b. Requests for Reimbursement.** Grantee shall submit to CJC a Request for Reimbursement (“RFR”) each quarter for reimbursement of Eligible Costs incurred during the prior calendar quarter. Each RFR must include supporting documentation for all Eligible Costs for which Grantee is seeking reimbursement. RFRs must be received by CJC no later than October 15, January 15, April 15, and July 15; provided, however, that the final RFR must be submitted no later than the earlier of 30 days after completion of the Project or 15 days after the Project End Date. Failure to submit an RFR by the due date could result in a loss of reimbursement for costs incurred during that quarter. Grantee must receive prior approval from CJC to submit an RFR after its due date.

#### **4. Disbursement and Recovery of Grant Funds.**

**a. Disbursement Generally.** Subject to Section 4.b, CJC shall reimburse, on a quarterly basis and within the line items of the Project Budget, Eligible Costs incurred in carrying out the Project, up to the amount of Grant Funds specified in Section 1. Reimbursements shall be made by CJC within 30 days of CJC’s approval of an RFR. “Eligible Costs” are the necessary and reasonable costs incurred by Grantee (or a subgrantee or subrecipient under a Sub-agreement) during the Project Period in implementation of the Project and that are allocable thereto and that are not excluded from reimbursement by CJC, either by this Agreement or by exclusion as a result of financial review or audit, subject to the following requirements and limitations:

- i.** Reimbursement rates for travel expenses shall not exceed those allowed by the Oregon travel policy, available at <http://www.oregon.gov/das/Financial/Acctng/Pages/Travel.aspx>. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the times, dates, and places of travel, and the actual expenses or authorized rates incurred. CJC will reimburse travel expenses only after the travel actually occurs. By way of example only, CJC will not reimburse the costs of an airplane ticket unless and until the ticketed air travel has actually occurred.
- ii.** When requesting reimbursement for equipment costing over \$5,000, the Grantee must provide a description of the equipment, purchase price, date of purchase, and identifying numbers if any.

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

- i.** CJC has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii.** Grantee is in compliance with the terms of this Agreement.
- iii.** Grantee's representations and warranties set forth in Section 5 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- iv.** All Progress Reports due on or before the date of disbursement have been completed and submitted to CJC.
- v.** Grantee has provided to CJC a RFR in accordance with Section 3.b. hereof.

**5. Representations and Warranties of Grantee.** Grantee represents and warrants to CJC as follows:

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

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

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



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

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

**6. Records Maintenance and Access; Audit.**

**a. Records, Access to Records and Facilities.** Grantee shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, state minimum standards for audits of municipal corporations. Grantee shall ensure that each of its subgrantees and subrecipients complies with these requirements. CJC, the Secretary of State of the State of Oregon (the “Secretary”), and their duly authorized representatives shall have access to the books, documents, papers and records of Grantee that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, CJC, the Secretary, USDOJ and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Grantee shall permit authorized representatives of CJC and the Secretary to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Grantee as part of the Project, and any transportation services rendered by Grantee.

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

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

## 7. Grantee Sub-agreements and Procurements

a. **Sub-agreements.** Grantee may enter into agreements with subgrantees and subrecipients (“Sub-agreements”) for implementation of portions of the Project. Grantee shall notify CJC of each Sub-agreement and provide CJC with a copy of a Sub-agreement upon request by CJC. Any material breach of a term or condition of a Sub-agreement relating to Grant Funds provided under this Agreement must be reported by Grantee to CJC within ten (10) days of its discovery.

b. **Sub-agreement indemnity; insurance.**

*Each Grantee Sub-agreement shall require each other party to such Sub-agreement, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to indemnify, defend, save and hold harmless the CJC and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys’ fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to the Sub-agreement or any of such party’s officers, agents, employees or contractors (“Claims”). It is the specific intention of the Parties that CJC shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the CJC, be indemnified by the other party to the Sub-agreement from and against any and all Claims.*

Any such indemnification shall also provide that neither the other party to such Sub-agreement nor any attorney engaged by such party shall defend a Claim in the name of the State of Oregon or an agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that the other party to such Sub-agreement is prohibited from defending State or that such other party is not adequately defending State’s interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against the other party to such Sub-agreement if State elects to assume its own defense.

Grantee shall require each other party to each of its Sub-agreements, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

c. **Procurements.**

i. Grantee shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules.

ii. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. Justification must be provided to CJC for any non-competitive or sole-source procurement. Justification should include a description of the equipment, materials or services procured, an explanation of why it was necessary to procure noncompetitively, time constraints and any other pertinent information. All sole source procurements in excess of \$100,000 must receive prior written approval from CJC in addition to any other approvals required by law applicable to Grantee. Intergovernmental agreements between units of government are excluded from this requirement to obtain CJC approval of sole source procurements.

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

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

a. Grantee fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein; or

b. Any representation, warranty or statement made by Grantee herein or in any documents or reports relied upon by CJC to monitor implementation of the Project, the use of the Grant Funds or the performance by Grantee is untrue in any material respect when made.

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

## **10. Termination**

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

- i. Grantee fails to implement the Project during the Project Period or commencement or continuation of the Project by Grantee is, for any reason, rendered improbable, impossible, or illegal; or
- ii. Grantee is in default under this Agreement and has failed to cure the default within the time period specified in Section 9; or
- iii. Grantee takes an action without the approval of CJC that, under the provisions of this Agreement, requires the approval of CJC; or
- iv. CJC fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement; or
- v. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
- vi. The Project would not produce results commensurate with the further expenditure of funds.

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

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

**c. Effect of Termination.** Upon termination of this Agreement, CJC may end all further disbursements of Grant Funds; provided, however, that if this Agreement is terminated under Sections 10.a.iv, 10.a.v, 10.a.vi, or 10.b, CJC will disburse Grant Funds to cover Eligible Costs incurred by Grantee prior to termination that CJC would otherwise be required to reimburse under the terms and conditions of this Agreement had the Agreement not been terminated. Termination of this Agreement shall not affect Grantee's obligations under this Agreement or CJC's right to enforce this Agreement against Grantee in accordance with its terms, with respect to Grant Funds actually received by Grantee or with respect to portions of the Project actually implemented. Specifically, but without limiting the generality of the preceding sentence, Sections 6 and 11 shall survive termination of this Agreement.

## 11. GENERAL PROVISIONS

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

With respect to a Third Party Claim for which CJC is jointly liable with Grantee (or would be if joined in the Third Party Claim ), CJC 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 Grantee in such proportion as is appropriate to reflect the relative fault of the CJC on the one hand and of the Grantee 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 CJC on the one hand and of Grantee 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. CJC’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 CJC had sole liability in the proceeding.

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

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

**c. Amendments; budget changes.** This Agreement may be amended only by a written instrument signed by both Parties and approved as required by applicable law. Grantee may propose changes to the Project Budget in Exhibit A that do not increase the total budget amount. If Grantee's proposed changes do not alter any line item in the Project Budget by more than ten percent, the proposed changes to the Project Budget will be effective upon written approval by CJC delivered to Grantee as provided in Section 11.f. All other changes to the Project Budget must be implemented through a formal amendment to this Agreement before the changes become effective.

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

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

**f. Notices.** Except as otherwise expressly provided in this Agreement, any notices to be given by a Party to the other Party hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same by registered or certified mail, postage prepaid, to Grantee Contact or CJC Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 11.f. Any notice personally delivered shall be deemed to be given when actually delivered. Any notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against CJC, such facsimile transmission must be confirmed by telephone notice to CJC Contact. Any notice by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any notice by registered or certified mail shall be deemed to be given three (3) days after mailing. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed notices under this Section unless receipt by the other Party is expressly acknowledged in writing by the receiving party.

**g. Work Product.** To the extent it has the necessary rights, Grantee hereby grants to CJC a non-exclusive, irrevocable, perpetual, royalty-free, license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display for governmental purposes, all documents, reports and works of authorship created, produced or obtained as part of or in connection with the Project ("Work Product"). Grantee shall deliver copies of Work

Product to CJC upon request. In addition, if applicable law requires that CJC or Grantee grant to the United States a license to any intellectual property created, produced or obtained as part of or in connection with the Project, or if applicable law requires that the CJC or the United States own such intellectual property, then Grantee shall execute such further documents and instruments as CJC may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or CJC.

**h. Governing Law, Consent to Jurisdiction.**

**i.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

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

**iii.** Notwithstanding Section 11.h.ii above, if a Claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 11.h.iii applies to a Claim brought against CJC or any other agency or department of the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 11.h.iii is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

**i. Compliance with Law.** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project. Without limiting the generality of the foregoing, Grantee expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

**j. Insurance; Workers' Compensation.** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than

\$500,000 must be included. Grantee shall ensure that each of its subgrantees and subrecipients complies with these requirements.

**k. Independent Contractor.** Grantee shall implement the Project as an independent contractor and not as an agent or employee of CJC. Grantee has no right or authority to incur or create any obligation for or legally bind CJC in any way. CJC cannot and will not control the means or manner by which Grantee implements the Project, except as specifically set forth in this Agreement. Grantee is responsible for determining the appropriate means and manner of implementing the Project. Grantee acknowledges and agrees that Grantee is not an “officer”, “employee”, or “agent” of CJC, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

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

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

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

*The signatures of the parties follow on the next page.*



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

**Approved by Grantee**

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Signature of Grantee Date

---

Name/Title

---

Federal Tax ID Number

---

State Tax ID Number

**Approved by Criminal Justice Commission**

---

Kenneth Sanchagrin, Executive Director Date

**Approved for Legal Sufficiency**

---

Approved for Legal Sufficiency by AAG Sam Zeigler by email dated 9/22/21

CJC Contact  
CJC Grant Administrator  
Rachel McArthur  
885 Summer St. NE  
Salem, OR 97301-2524  
rachel.mcarthur@oregon.gov  
(503) 378-2655

Grantee Contact  
NAME  
ADDRESS  
ADDRESS  
EMAIL  
PHONE

## EXHIBIT A

### Project Description and Budget

The goal of the Criminal Justice Commission’s *Specialty Court Grant Program* is to financially support Oregon specialty courts. Oregon specialty courts are those courts, programs and systems identified in Oregon Laws 2013, Chapter 649, Section 39. The specialty courts are designed to address the root causes of criminal activity by offering non-violent offenders an alternative to incarceration. Oregon’s best practice standards applicable to the specialty courts are available at <http://www.oregon.gov/cjc/specialtycourts/Documents/family/OregonTreatmentCourtStandards.pdf> and are incorporated herein by reference (“Best Practices”).

This Grant Agreement funds the **Clackamas County Adult DUI Court** to address the needs of adults who are involved with the criminal justice system, with the goal of providing the opportunity to divert them from prison. Grantee shall administer the Grant Funds provided under this Grant Agreement to support the operation, substantially in accordance with the Best Practices, of the **Clackamas County Adult DUI Court**.

Project Start Date: July 1, 2021

Project End Date: June 30, 2023

GRANT #: SC-23-003

GRANTEE PROGRAM CONTACT: Jennifer Rees

GRANTEE FISCAL CONTACT: INSERT NAME

EMAIL: [jrees@clackamas.us](mailto:jrees@clackamas.us)

EMAIL: INSERT EMAIL

TELEPHONE: 503-722-6502

TELEPHONE: INSERT NO.

#### BUDGET SUMMARY:

	Grant Funds Requested
Personnel	\$0
Contractual Personnel Services	\$0
Drug Testing	\$0
Medical Needs	\$0
Other Participant Supports	\$42,067
Sanction Costs	\$12,000
Training and Travel	\$10,000
Evaluation	\$0
Indirect Costs	\$7,119
Total	\$71,186

FUNDING BREAKDOWN:

<b>A</b>	<b>Total Project Cost</b>	<b>\$ 71,186</b>
B	Federal Funds	\$0
C	Lottery Funds	\$0
D	General Funds	\$71,186
E	Other Funds	\$0

## **EXHIBIT B**

### **Project Goals and Objectives**

The goal of the Grant Program is to financially support specialty courts serving adults, juveniles, veterans, and families. Specialty courts have demonstrated positive cost-effective results for people struggling with substance use disorder through recidivism outcomes by way of interdisciplinary team collaboration, court-directed treatment, and compliance.

All Specialty Court Grant Program awards require recipients to submit progress reports quarterly through OJD's Specialty Court Case Management System (SCMS) <https://scms.oregon.gov> and CJC's grant administration website <https://cjc-grants.smapply.io/>. Grantees shall complete and submit progress reports that contain all of the requested data.

#### **1. SCMS CJC State Report**

- a. All participant related tracking information in SCMS
- b. Complete for the quarter no later than the 15<sup>th</sup> of the month following the end of the quarter.

#### **2. Semi-Annual Progress Report**

- a. Court Name
- b. Court Type
- c. What is working well? (Narrative, 150 words)
- d. What is challenging? (Narrative, 150 words)
- e. The Specialty Court Grant Program funds are one-time funding that cannot be rolled over into future grant periods. At the end of the grant period any unspent funds are returned to Oregon's General Fund. What is the court's biggest barrier to spending all of the grant dollars awarded? (Narrative, 50 words)
- f. What is the court doing to address any barriers to spending all of the grant dollars awarded? (Narrative, 300 words)
- g. What is the court doing to address any barriers to maintaining monthly participant numbers at or near capacity? Capacity means the number of participants the program can serve at one time, regardless of phase. (Narrative, 150 words)
- h. If the court did not meet Oregon Specialty Court Standards, what is the court doing to improve? Please identify the standard and what work is being done to move towards meeting the standard. (Narrative, 300 words)
- i. What does the court need technical assistance or support with from CJC? (Narrative, 150 words)

## EXHIBIT C

### Sub-agreement Insurance Requirements

Grantee shall require each other party to a Sub-agreement that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, CERTIFICATES OF INSURANCE, and NOTIFICATION OF CHANGE OR CANCELLATION before the subgrantee performs under Sub-agreement, and ii) maintain the insurance in full force throughout the duration of the Sub-agreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to CJC. Grantee shall not authorize a subgrantee to begin work under a Sub-agreement until the insurance is in full force. Thereafter, Grantee shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Grantee shall incorporate appropriate provisions in the Sub-agreements permitting it to enforce subgrantee compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Sub-agreement as permitted by the Sub-agreement or pursuing legal action to enforce the insurance requirements. In no event shall Grantee permit a subgrantee to work under a Sub-agreement when the Grantee is aware that the subgrantee is not in compliance with the insurance requirements.

#### TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Workers' Compensation Insurance as required by applicable workers' compensation laws for persons performing work under a Sub-agreement including Employers' Liability Insurance with limits not less than \$500,000 each accident.

#### ii. PROFESSIONAL LIABILITY

Required by CJC    Not required by CJC.

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Sub-agreement, in an amount not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the subgrantee shall provide Tail Coverage as stated below.

#### iii. COMMERCIAL GENERAL LIABILITY.

Required by CJC    Not required by CJC.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to CJC. This insurance shall include personal injury liability, products and completed operations and contractual liability coverage for the indemnity provided under

the Sub-agreement. Coverage shall be written on an occurrence form basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

iv. AUTOMOBILE LIABILITY.

Required by CJC    Not required by CJC.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage.

ADDITIONAL INSURED. The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, CJC, and their officers, employees and agents as Additional Insureds but only with respect to the activities to be performed under the Sub-agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance is on a "claims made" basis and does not include an extended reporting period of at least 24 months, the subgrantee shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Sub-agreement, for a minimum of 24 months following the later of : (i) the subgrantee's completion and Grantee's acceptance of all services required under the Sub-agreement or, (ii) the expiration of all warranty periods provided under the Sub-agreement.

CERTIFICATE(S) OF INSURANCE. Grantee shall obtain from the subgrantee a certificate(s) of insurance for all required insurance before the subgrantee performs under the Subagreement. The certificate(s) list the State of Oregon, its officers, employees and agents as a Certificate holder and as Additional Insured, specify that subgrantee shall pay for all deductibles, self-insured retention and self-insurance, if any, that all coverage shall be primary and non-contributory with any other insurance and self-insurance, and confirm that either an extended reporting period of at least 24 months is provided on all claims made policies or that tail coverage is provided. As proof of insurance, CJC has the right to request copies of the certificate(s) or insurance policies relating to the insurance requirements in this Agreement.

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

INSURANCE REQUIREMENT REVIEW. Grantee agrees to periodic review of insurance requirements by CJC under this agreement and to provide updated requirements as mutually agreed upon by Grantee.



October 28, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval to accept funding from the State of Oregon Criminal Justice Commission (CJC) for Specialty Court Program – Adult Drug Court. Funding agreement is for \$204,257.

No County General Funds are involved.

<b>Purpose/Outcomes</b>	Improve the legitimacy, efficiency, and effectiveness of the state and local criminal justice system. Health Centers Division intends to utilize funds to support the existing Adult Drug Court program.
<b>Dollar Amount and Fiscal Impact</b>	The maximum agreement value is \$204,257. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	State of Oregon Criminal Justice Commission (CJC)
<b>Duration</b>	Effective July 1, 2021 and terminates June 30, 2023
<b>Previous Board Action</b>	July 1, 2021 A.22: Approval to Apply
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Improve community safety and health</li> <li>2. Ensure safe, healthy and secure communities by investing funds in treatment, housing, and other supportive services to participants.</li> </ol>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. 10/05/21</li> <li>2. KR</li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></li> <li>2. This is a direct procurement of a grant award.</li> </ol>
<b>Contact Person</b>	Deborah Cockrell, Health Centers Division Director – 503-742-5495
<b>Contract No.</b>	10223

**BACKGROUND:**

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval to accept award SC-23-002 from the State of Oregon Criminal Justice Commission (CJC). CCHCD has been a recipient of this biennial funding for multiple cycles. This renewal of funding continues the financial

*Healthy Families. Strong Communities.*



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investment into the existing Clackamas County Adult Drug Treatment program and will help fund treatment, housing, and other supportive services to participants.

The award has a maximum value of \$204,257. It is effective July 1, 2021 and terminates June 30, 2023.

**RECOMMENDATION:**

Staff recommends the Board approval.

Respectfully submitted,

*Mary Rumbaugh*

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

CRIMINAL JUSTICE COMMISSION  
SPECIALTY COURTS GRANT PROGRAM  
GRANT AGREEMENT

885 Summer Street NE  
Salem, OR 97301

This Grant Agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Criminal Justice Commission, hereafter referred to as “CJC,” and **Clackamas County**, hereinafter referred to as “Grantee,” and collectively referred to as the “Parties.” This Agreement shall become effective on the later of July 1, 2021 or the date when this Agreement is fully executed and approved as required by applicable law.

**1. Grant.** In accordance with the terms and conditions of this Agreement, CJC shall provide Grantee an amount not to exceed \$204,257 (the “Grant Funds”) to assist Grantee in implementing the project described in Exhibits A and B (the “Project”) during the period beginning on the Project Start Date and ending on the Project End Date (the “Project Period”), as those dates are specified in Exhibit A. The Grant Funds may be used by Grantee solely for Eligible Costs (as described in Section 4.a) incurred by Grantee within the line items of the Project Budget (set forth in Exhibit A) during the Project Period. CJC’s obligation to disburse Grant Funds under this Agreement shall end 45 days after the Project End Date.

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

Exhibit A:               **Project Description and Budget**  
Exhibit B:               **Project Goals and Objectives**  
Exhibit C:               **Sub-agreement Insurance Requirements**

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

**3. Reports.** Grantee shall submit the reports required by this section.

**a. Progress Reports.** Grantee shall submit to CJC reports each quarter during Project implementation as specified in Exhibit B as well as such other quarterly reports and information on the Project as CJC may reasonably request (collectively, “Progress Reports”). Progress Reports must be received by CJC no later than October 15, January 15, April 15 and July 15 for the prior calendar quarter. Additionally, Grantee shall submit to CJC no later than January 15 an annual Progress Report for the prior year that describes, in a narrative fashion, Grantee’s progress in meeting the Project’s objectives and any remedial actions necessary if

those objectives have not been met in any respect. Grantee must receive prior approval from CJC to submit a Progress Report after its due date.

**b. Requests for Reimbursement.** Grantee shall submit to CJC a Request for Reimbursement (“RFR”) each quarter for reimbursement of Eligible Costs incurred during the prior calendar quarter. Each RFR must include supporting documentation for all Eligible Costs for which Grantee is seeking reimbursement. RFRs must be received by CJC no later than October 15, January 15, April 15, and July 15; provided, however, that the final RFR must be submitted no later than the earlier of 30 days after completion of the Project or 15 days after the Project End Date. Failure to submit an RFR by the due date could result in a loss of reimbursement for costs incurred during that quarter. Grantee must receive prior approval from CJC to submit an RFR after its due date.

#### **4. Disbursement and Recovery of Grant Funds.**

**a. Disbursement Generally.** Subject to Section 4.b, CJC shall reimburse, on a quarterly basis and within the line items of the Project Budget, Eligible Costs incurred in carrying out the Project, up to the amount of Grant Funds specified in Section 1. Reimbursements shall be made by CJC within 30 days of CJC’s approval of an RFR. “Eligible Costs” are the necessary and reasonable costs incurred by Grantee (or a subgrantee or subrecipient under a Sub-agreement) during the Project Period in implementation of the Project and that are allocable thereto and that are not excluded from reimbursement by CJC, either by this Agreement or by exclusion as a result of financial review or audit, subject to the following requirements and limitations:

- i.** Reimbursement rates for travel expenses shall not exceed those allowed by the Oregon travel policy, available at <http://www.oregon.gov/das/Financial/Acctng/Pages/Travel.aspx>. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the times, dates, and places of travel, and the actual expenses or authorized rates incurred. CJC will reimburse travel expenses only after the travel actually occurs. By way of example only, CJC will not reimburse the costs of an airplane ticket unless and until the ticketed air travel has actually occurred.
- ii.** When requesting reimbursement for equipment costing over \$5,000, the Grantee must provide a description of the equipment, purchase price, date of purchase, and identifying numbers if any.

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

- i.** CJC has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii.** Grantee is in compliance with the terms of this Agreement.
- iii.** Grantee's representations and warranties set forth in Section 5 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- iv.** All Progress Reports due on or before the date of disbursement have been completed and submitted to CJC.
- v.** Grantee has provided to CJC a RFR in accordance with Section 3.b. hereof.

**5. Representations and Warranties of Grantee.** Grantee represents and warrants to CJC as follows:

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

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

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

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

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

**6. Records Maintenance and Access; Audit.**

**a. Records, Access to Records and Facilities.** Grantee shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, state minimum standards for audits of municipal corporations. Grantee shall ensure that each of its subgrantees and subrecipients complies with these requirements. CJC, the Secretary of State of the State of Oregon (the “Secretary”), and their duly authorized representatives shall have access to the books, documents, papers and records of Grantee that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, CJC, the Secretary, USDOJ and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Grantee shall permit authorized representatives of CJC and the Secretary to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Grantee as part of the Project, and any transportation services rendered by Grantee.

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

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

## 7. Grantee Sub-agreements and Procurements

a. **Sub-agreements.** Grantee may enter into agreements with subgrantees and subrecipients (“Sub-agreements”) for implementation of portions of the Project. Grantee shall notify CJC of each Sub-agreement and provide CJC with a copy of a Sub-agreement upon request by CJC. Any material breach of a term or condition of a Sub-agreement relating to Grant Funds provided under this Agreement must be reported by Grantee to CJC within ten (10) days of its discovery.

b. **Sub-agreement indemnity; insurance.**

*Each Grantee Sub-agreement shall require each other party to such Sub-agreement, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to indemnify, defend, save and hold harmless the CJC and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys’ fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to the Sub-agreement or any of such party’s officers, agents, employees or contractors (“Claims”). It is the specific intention of the Parties that CJC shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the CJC, be indemnified by the other party to the Sub-agreement from and against any and all Claims.*

Any such indemnification shall also provide that neither the other party to such Sub-agreement nor any attorney engaged by such party shall defend a Claim in the name of the State of Oregon or an agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that the other party to such Sub-agreement is prohibited from defending State or that such other party is not adequately defending State’s interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against the other party to such Sub-agreement if State elects to assume its own defense.

Grantee shall require each other party to each of its Sub-agreements, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

c. **Procurements.**

i. Grantee shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules.

ii. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. Justification must be provided to CJC for any non-competitive or sole-source procurement. Justification should include a description of the equipment, materials or services procured, an explanation of why it was necessary to procure noncompetitively, time constraints and any other pertinent information. All sole source procurements in excess of \$100,000 must receive prior written approval from CJC in addition to any other approvals required by law applicable to Grantee. Intergovernmental agreements between units of government are excluded from this requirement to obtain CJC approval of sole source procurements.

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

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

a. Grantee fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein; or

b. Any representation, warranty or statement made by Grantee herein or in any documents or reports relied upon by CJC to monitor implementation of the Project, the use of the Grant Funds or the performance by Grantee is untrue in any material respect when made.

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

## **10. Termination**

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

- i. Grantee fails to implement the Project during the Project Period or commencement or continuation of the Project by Grantee is, for any reason, rendered improbable, impossible, or illegal; or
- ii. Grantee is in default under this Agreement and has failed to cure the default within the time period specified in Section 9; or
- iii. Grantee takes an action without the approval of CJC that, under the provisions of this Agreement, requires the approval of CJC; or
- iv. CJC fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement; or
- v. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
- vi. The Project would not produce results commensurate with the further expenditure of funds.

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

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

**c. Effect of Termination.** Upon termination of this Agreement, CJC may end all further disbursements of Grant Funds; provided, however, that if this Agreement is terminated under Sections 10.a.iv, 10.a.v, 10.a.vi, or 10.b, CJC will disburse Grant Funds to cover Eligible Costs incurred by Grantee prior to termination that CJC would otherwise be required to reimburse under the terms and conditions of this Agreement had the Agreement not been terminated. Termination of this Agreement shall not affect Grantee's obligations under this Agreement or CJC's right to enforce this Agreement against Grantee in accordance with its terms, with respect to Grant Funds actually received by Grantee or with respect to portions of the Project actually implemented. Specifically, but without limiting the generality of the preceding sentence, Sections 6 and 11 shall survive termination of this Agreement.



## 11. GENERAL PROVISIONS

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

With respect to a Third Party Claim for which CJC is jointly liable with Grantee (or would be if joined in the Third Party Claim ), CJC 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 Grantee in such proportion as is appropriate to reflect the relative fault of the CJC on the one hand and of the Grantee 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 CJC on the one hand and of Grantee 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. CJC’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 CJC had sole liability in the proceeding.

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

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

**c. Amendments; budget changes.** This Agreement may be amended only by a written instrument signed by both Parties and approved as required by applicable law. Grantee may propose changes to the Project Budget in Exhibit A that do not increase the total budget amount. If Grantee's proposed changes do not alter any line item in the Project Budget by more than ten percent, the proposed changes to the Project Budget will be effective upon written approval by CJC delivered to Grantee as provided in Section 11.f. All other changes to the Project Budget must be implemented through a formal amendment to this Agreement before the changes become effective.

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

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

**f. Notices.** Except as otherwise expressly provided in this Agreement, any notices to be given by a Party to the other Party hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same by registered or certified mail, postage prepaid, to Grantee Contact or CJC Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 11.f. Any notice personally delivered shall be deemed to be given when actually delivered. Any notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against CJC, such facsimile transmission must be confirmed by telephone notice to CJC Contact. Any notice by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any notice by registered or certified mail shall be deemed to be given three (3) days after mailing. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed notices under this Section unless receipt by the other Party is expressly acknowledged in writing by the receiving party.

**g. Work Product.** To the extent it has the necessary rights, Grantee hereby grants to CJC a non-exclusive, irrevocable, perpetual, royalty-free, license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display for governmental purposes, all documents, reports and works of authorship created, produced or obtained as part of or in connection with the Project ("Work Product"). Grantee shall deliver copies of Work

Product to CJC upon request. In addition, if applicable law requires that CJC or Grantee grant to the United States a license to any intellectual property created, produced or obtained as part of or in connection with the Project, or if applicable law requires that the CJC or the United States own such intellectual property, then Grantee shall execute such further documents and instruments as CJC may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or CJC.

**h. Governing Law, Consent to Jurisdiction.**

**i.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

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

**iii.** Notwithstanding Section 11.h.ii above, if a Claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 11.h.iii applies to a Claim brought against CJC or any other agency or department of the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 11.h.iii is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

**i. Compliance with Law.** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project. Without limiting the generality of the foregoing, Grantee expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

**j. Insurance; Workers' Compensation.** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than

\$500,000 must be included. Grantee shall ensure that each of its subgrantees and subrecipients complies with these requirements.

**k. Independent Contractor.** Grantee shall implement the Project as an independent contractor and not as an agent or employee of CJC. Grantee has no right or authority to incur or create any obligation for or legally bind CJC in any way. CJC cannot and will not control the means or manner by which Grantee implements the Project, except as specifically set forth in this Agreement. Grantee is responsible for determining the appropriate means and manner of implementing the Project. Grantee acknowledges and agrees that Grantee is not an “officer”, “employee”, or “agent” of CJC, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

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

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

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

*The signatures of the parties follow on the next page.*

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

**Approved by Grantee**

---

Signature of Grantee Date

---

Name/Title

---

Federal Tax ID Number

---

State Tax ID Number

**Approved by Criminal Justice Commission**

---

Kenneth Sanchagrin, Executive Director Date

**Approved for Legal Sufficiency**

---

Approved for Legal Sufficiency by AAG Sam Zeigler by email dated 9/22/21

CJC Contact  
CJC Grant Administrator  
Rachel McArthur  
885 Summer St. NE  
Salem, OR 97301-2524  
rachel.mcarthur@oregon.gov  
(503) 378-2655

Grantee Contact  
NAME  
ADDRESS  
ADDRESS  
EMAIL  
PHONE

# EXHIBIT A

## Project Description and Budget

The goal of the Criminal Justice Commission’s *Specialty Court Grant Program* is to financially support Oregon specialty courts. Oregon specialty courts are those courts, programs and systems identified in Oregon Laws 2013, Chapter 649, Section 39. The specialty courts are designed to address the root causes of criminal activity by offering non-violent offenders an alternative to incarceration. Oregon’s best practice standards applicable to the specialty courts are available at <http://www.oregon.gov/cjc/specialtycourts/Documents/family/OregonTreatmentCourtStandards.pdf> and are incorporated herein by reference (“Best Practices”).

This Grant Agreement funds the **Clackamas County Adult Drug Court** to address the needs of adults who are involved with the criminal justice system, with the goal of providing the opportunity to divert them from prison. Grantee shall administer the Grant Funds provided under this Grant Agreement to support the operation, substantially in accordance with the Best Practices, of the **Clackamas County Adult Drug Court**.

Project Start Date: July 1, 2021

Project End Date: June 30, 2023

GRANT #: SC-23-002

GRANTEE PROGRAM CONTACT: Jennifer Rees

GRANTEE FISCAL CONTACT: INSERT NAME

EMAIL: [jrees@clackamas.us](mailto:jrees@clackamas.us)

EMAIL: INSERT EMAIL

TELEPHONE: 503-722-6502

TELEPHONE: INSERT NO.

### BUDGET SUMMARY:

	Grant Funds Requested
Personnel	\$0
Contractual Personnel Services	\$0
Drug Testing	\$0
Medical Needs	\$0
Other Participant Supports	\$194,257
Sanction Costs	\$0
Training and Travel	\$10,000
Evaluation	\$0
Indirect Costs	\$0
Total	\$204,257

FUNDING BREAKDOWN:

<b>A</b>	<b>Total Project Cost</b>	<b>\$ 204,257</b>
B	Federal Funds	\$0
C	Lottery Funds	\$0
D	General Funds	\$204,257
E	Other Funds	\$0

## **EXHIBIT B**

### **Project Goals and Objectives**

The goal of the Grant Program is to financially support specialty courts serving adults, juveniles, veterans, and families. Specialty courts have demonstrated positive cost-effective results for people struggling with substance use disorder through recidivism outcomes by way of interdisciplinary team collaboration, court-directed treatment, and compliance.

All Specialty Court Grant Program awards require recipients to submit progress reports quarterly through OJD's Specialty Court Case Management System (SCMS) <https://scms.oregon.gov> and CJC's grant administration website <https://cjc-grants.smapply.io/>. Grantees shall complete and submit progress reports that contain all of the requested data.

#### **1. SCMS CJC State Report**

- a. All participant related tracking information in SCMS
- b. Complete for the quarter no later than the 15<sup>th</sup> of the month following the end of the quarter.

#### **2. Semi-Annual Progress Report**

- a. Court Name
- b. Court Type
- c. What is working well? (Narrative, 150 words)
- d. What is challenging? (Narrative, 150 words)
- e. The Specialty Court Grant Program funds are one-time funding that cannot be rolled over into future grant periods. At the end of the grant period any unspent funds are returned to Oregon's General Fund. What is the court's biggest barrier to spending all of the grant dollars awarded? (Narrative, 50 words)
- f. What is the court doing to address any barriers to spending all of the grant dollars awarded? (Narrative, 300 words)
- g. What is the court doing to address any barriers to maintaining monthly participant numbers at or near capacity? Capacity means the number of participants the program can serve at one time, regardless of phase. (Narrative, 150 words)
- h. If the court did not meet Oregon Specialty Court Standards, what is the court doing to improve? Please identify the standard and what work is being done to move towards meeting the standard. (Narrative, 300 words)
- i. What does the court need technical assistance or support with from CJC? (Narrative, 150 words)



## EXHIBIT C

### Sub-agreement Insurance Requirements

Grantee shall require each other party to a Sub-agreement that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, CERTIFICATES OF INSURANCE, and NOTIFICATION OF CHANGE OR CANCELLATION before the subgrantee performs under Sub-agreement, and ii) maintain the insurance in full force throughout the duration of the Sub-agreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to CJC. Grantee shall not authorize a subgrantee to begin work under a Sub-agreement until the insurance is in full force. Thereafter, Grantee shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Grantee shall incorporate appropriate provisions in the Sub-agreements permitting it to enforce subgrantee compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Sub-agreement as permitted by the Sub-agreement or pursuing legal action to enforce the insurance requirements. In no event shall Grantee permit a subgrantee to work under a Sub-agreement when the Grantee is aware that the subgrantee is not in compliance with the insurance requirements.

#### TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Workers' Compensation Insurance as required by applicable workers' compensation laws for persons performing work under a Sub-agreement including Employers' Liability Insurance with limits not less than \$500,000 each accident.

#### ii. PROFESSIONAL LIABILITY

Required by CJC    Not required by CJC.

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Sub-agreement, in an amount not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the subgrantee shall provide Tail Coverage as stated below.

#### iii. COMMERCIAL GENERAL LIABILITY.

Required by CJC    Not required by CJC.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to CJC. This insurance shall include personal injury liability, products and completed operations and contractual liability coverage for the indemnity provided under

the Sub-agreement. Coverage shall be written on an occurrence form basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

iv. AUTOMOBILE LIABILITY.

Required by CJC    Not required by CJC.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage.

ADDITIONAL INSURED. The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, CJC, and their officers, employees and agents as Additional Insureds but only with respect to the activities to be performed under the Sub-agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance is on a "claims made" basis and does not include an extended reporting period of at least 24 months, the subgrantee shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Sub-agreement, for a minimum of 24 months following the later of : (i) the subgrantee's completion and Grantee's acceptance of all services required under the Sub-agreement or, (ii) the expiration of all warranty periods provided under the Sub-agreement.

CERTIFICATE(S) OF INSURANCE. Grantee shall obtain from the subgrantee a certificate(s) of insurance for all required insurance before the subgrantee performs under the Subagreement. The certificate(s) list the State of Oregon, its officers, employees and agents as a Certificate holder and as Additional Insured, specify that subgrantee shall pay for all deductibles, self-insured retention and self-insurance, if any, that all coverage shall be primary and non-contributory with any other insurance and self-insurance, and confirm that either an extended reporting period of at least 24 months is provided on all claims made policies or that tail coverage is provided. As proof of insurance, CJC has the right to request copies of the certificate(s) or insurance policies relating to the insurance requirements in this Agreement.

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

INSURANCE REQUIREMENT REVIEW. Grantee agrees to periodic review of insurance requirements by CJC under this agreement and to provide updated requirements as mutually agreed upon by Grantee.



October 28, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval to accept funding from North Clackamas School District. Funding agreement is for \$105,000.  
No County General Funds are involved.

<b>Purpose/Outcomes</b>	To provide start-up funding to help defray the startup costs of the first year of operations at the two new Student Based Health Centers at Clackamas High School and Adrienne C. Nelson High School.
<b>Dollar Amount and Fiscal Impact</b>	The maximum agreement value is \$105,000. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	North Clackamas School District
<b>Duration</b>	Effective upon full execution of agreement and expires when Health Centers completed performance has been accepted by District, not to exceed June 30, 2022.
<b>Previous Board Action</b>	No previous board action.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Improve community safety and health</li> <li>2. Ensure safe, healthy and secure communities by investing funds to expand integrated healthcare to the students in North Clackamas School District</li> </ol>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. 09/20/21</li> <li>2. KR</li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></li> <li>2. This is a direct procurement of a grant award.</li> </ol>
<b>Contact Person</b>	Deborah Cockrell, Health Centers Division Director – 503-742-5495
<b>Contract No.</b>	10366

**BACKGROUND:**

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval to accept funding from North Clackamas School District. Health Centers will utilize these funds per the terms of the agreement to

*Healthy Families. Strong Communities.*

Page 2 Staff Report  
October 28, 2021  
Contract # 10366

defray the startup costs of the first year of operations at the two new Student Based Health Centers at Clackamas High School and Adrienne C. Nelson High School.

The award has a maximum value of \$105,000. It is effective upon full execution of agreement and expires when Health Centers completed performance has been accepted by District, not to exceed June 30, 2022.

**RECOMMENDATION:**

Staff recommends the Board approval.

Respectfully submitted,

*Mary Rumbaugh*

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



This agreement is between the **North Clackamas School District**, hereafter called **District**, and **Clackamas County acting by and through its Health and Human Services Department: Health Centers Division**, hereafter called **Contractor**.

**Administrators of this agreement are:**

Contractor: Clackamas County Health & Human Services Department  
Administrator: Deborah Cockrell  
Title: Director  
Organization: Clackamas County Health & Human Services Department  
Address: 2051 Kaen Road, Suite 367  
Oregon City, OR 97045  
Phone: (503) 655-8471  
Fax: (503) 742-5979  
Federal ID Number:

Email: DCockrell@clackamas.us

**District:**

Administrator: Joel Stuart  
Title: Student Success Lead Administrator  
Address: 12400 SE Freeman Way  
Milwaukie, OR 97222  
Phone: (503) 353-6047  
Fax:  
Email: stuartj@nclack.k12.or.us

**1. Purpose**

The purpose of this agreement is to provide start-up funding in the amount of \$105,000 to help defray the startup costs of the first year of operations at the two new Student Based Health Center sites.

**2. Effective Date and Duration**

This agreement shall become effective on the date all required signatures are obtained. Unless earlier terminated, amended or extended, this agreement shall expire when Contractor's completed performance has been accepted by District. This contract may be renewed upon mutual agreement of the parties for up to one (1) year.

**3. Statement of Work**

The Statement of Work, including the delivery schedule for the work, is contained in **Exhibit A** attached hereto and by this reference made a part hereof.

**4. Consideration**

A. District agrees to pay Contractor, from available and authorized funds as provided in paragraph 8, the sum of up to **\$105,000.00** for accomplishing the work required by this agreement. The maximum, not-to-exceed compensation payable to Contractor under this agreement, which includes any allowable expenses, is **\$105,000.00**.

B. Any interim payments to Contractor shall be made only in accordance with the schedule and requirements in **Exhibit A**.

**5. Subcontracts**

Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract, without District's prior written consent. District's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

**6. Amendments**

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written amendment signed by the parties. The amendment shall be effective as of the date on which every party has signed the amendment and all requisite approvals are obtained. All amendments to this Agreement shall comply with applicable statutes and administrative rules.

## **7. Termination**

A. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) calendar day's written notice.

B. The District may terminate this agreement effective upon delivery of written notice to the Contractor, or at such other date as may be established by the District under any of the following conditions:

1. If District funding is not obtained and continued at levels sufficient to allow for purchase of the specified services. When possible, and when agreed upon, the agreement may be modified to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement, or are no longer eligible for the funding proposed for payments authorized by this agreement.
3. If the Contractor fails to perform the work specified herein, 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 the District, fails to correct such failures within ten (10) days or such longer period as the District may authorize.

## **8. Funds Available and Authorized**

The District certifies at the time the agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this agreement within the District's current appropriation and limitation. Contractor understands and agrees that District's payment of amounts under this agreement attributable to work performed after the last date of the current biennium is contingent on District receiving appropriations, limitations, or other expenditure authority sufficient to allow District, in the exercise of its reasonable administrative discretion, to continue to make payments under this agreement. In the event the District fails to have sufficient appropriations, limitations, or other expenditure authority, District may terminate this agreement without penalty or liability to the District, effective upon the delivery of written notice to the Contractor, with no further liability to Contractor.

## **9. Access to Records**

The District, and its duly authorized representatives shall have access to the books, documents, papers and records otherwise privileged under law of the Contractor which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcript.

## **10. Compliance with Applicable Law**

Contractor will comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) the Fair Labor Standards Act; (v) the Occupational Safety and Health Act of 1970; (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

## **11. Sensitive Information**

Except for information that is already a matter of public record, CONTRACTOR shall not publish or otherwise disclose, except to District or as otherwise required by law, any information or data obtained hereunder from private individuals, organizations, or public agencies in a publication wherein the information or data furnished by or about any particular person or establishment can be identified, except with the written consent of such person or establishment. Information concerning the business of the District, its financial affairs, and its relations with its clients and employees, as well as any other information that may be specifically classified as confidential by the District, shall be kept confidential. CONTRACTOR shall instruct its employees and subcontractors to keep such information confidential by using the same care and discretion that they use with similar information that the CONTRACTOR designates as confidential.

## **12. Alcohol/Drug/Firearm Policy**

District prohibits the use of drugs, tobacco, alcohol, or firearms on District property.

### **13. Indemnification**

Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Contractor shall defend, indemnify, and hold District, its officers, agents, and employees harmless against all liability, loss, costs, or expenses, including attorney's fees, and against all claims, actions, or judgments based upon or arising out of damage or injury (including death) to persons or property caused by any act or omission of an act sustained in any way in connection with the performance of this agreement or by conditions created thereby, or based upon violation of any statute, ordinance, or regulation. This contractual indemnity provision does not abrogate common law or statutory law liability and indemnification to District, but is in addition to such common law or statutory law provisions.

### **14. Insurance**

As evidence of the insurance coverage required by this contract, the Contractor shall furnish Certificate(s) of insurance to the District before final award can be authorized. The insurance coverage required under this contract shall be obtained from acceptable insurance companies or entities. The contractor shall be financially responsible for all deductibles, self-insured retention and/or self-insurance included hereunder. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract:

\_ Commercial General Liability Insurance covering bodily injury and property damage. Combined single limit per occurrence shall not be less than \$1,000,000. Each annual aggregate limit shall not be less than \$2,000,000.

\_ Automobile Liability. Combined single limit per occurrence shall not be less than \$1,000,000. Each annual aggregate limit shall not be less than \$1,000,000.

\_ Professional Liability. Combined single limit per occurrence shall not be less than \$1,000,000. Each annual aggregate limit shall not be less than \$1,000,000.

All subject employers working under this contract are either employers that will comply with ORS 656.017 which requires them to provide Oregon workers' compensation coverage that satisfies Oregon law for all their subject workers, or employers that are exempt under ORS 656.126. [2003 c.794 §76c] In addition, Contractor will obtain, at contractor's expense, and keep in effect during the term of this contract, Employers Liability insurance with a limit of not less than \$1,000,000 per each occupational accident/disease. The Commercial General Liability and Automobile Liability insurance coverage required for performance of the contract shall include North Clackamas School District, its divisions, officers, and employees as Additional Insured but only with respect to the Contractor's activities to be performed under this contract.

### **15. Independent Contractor Status**

This Contract is not intended and nothing contained herein shall be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association between District and Contractor, but is rather an agreement between independent parties, these being District and Contractor.

### **16. Background Check Certification**

Contractor shall ensure that employees and agents with the opportunity for direct, unsupervised contact with students have successfully passed a nationwide background check. Employees or agents convicted, or arrested without resolution, of the crimes listed in ORS 342.143(3)(a), constitutes failure of the background check.

**17. Force Majeure.** District shall not be liable for any failure of or delay in performance for the period that such failure or delay is beyond the reasonable control of District materially affects the performance of any of its obligations under this agreement including but not limited to Acts of God, nationwide or global pandemics, fire, flood, explosion, earthquake, or other natural forces, war, civil unrest, accident, any strike or labor disturbance, or any other event similar to those enumerated above.

### **18. Merger Clause**

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



**SIGNATURES**

**North Clackamas School District**

**Clackamas County, Health & Human Services Department**

**Name:** Kerensa Mauck

**Name:** \_\_\_\_\_

**Title:** Director of Business Operations

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

**Signature:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

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

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

**EXHIBIT A – Statement of Work**

District and Clackamas Health Centers mutually express their agreement and common understanding as follows:

**Responsibilities:** North Clackamas School District to provide start-up funding in the amount of \$105,000 to help defray the startup costs of the first year of operations at the two new Student Based Health Centers at Clackamas High School and Adrienne C. Nelson High School.



**Daniel Nibouar**  
Interim Director

**Disaster Management**  
1710 Red Soils Ct., Ste. 225  
Oregon City, OR 97045

T 503-655-8378

[clackamas.us](http://clackamas.us)

October 19, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Facility Use Agreement between Clackamas County and the City of Sandy/Sandy Community Services for emergency/disaster related use of the Sandy Community/Seniors Center

<b>Purpose/Outcomes</b>	This Facility Use Agreement (FUA) allows Clackamas County to use Sandy Community/Seniors Center post-emergency/disaster purposes such as vaccine points of distribution.
<b>Dollar Amount and Fiscal Impact</b>	The FUA has no monetary value. The County agrees to pay for expenses to ensure facilities are returned to their pre-use condition, as well as any facility-related expenses incurred during the time the County is making use of the facility. If needed, those expenses will be paid with from Federal grants that provide funds for that purpose.
<b>Funding Source</b>	None
<b>Duration</b>	June 30, 2022 until terminated by either party.
<b>Previous Board Action</b>	The Board has approved similar agreements with other churches, school districts and local municipalities.
<b>Strategic Plan Alignment</b>	1. Coordination and Integration of Planning and Preparedness 2. Ensure Safe, Healthy and Secure Communities
<b>Counsel Review</b>	Approved by Counsel - AN on 10/12/21
<b>Contact Person</b>	Philip Mason-Joyner, Public Health Director, 503-742-5956
<b>Contract No.</b>	None

**BACKGROUND:**

This agreement allows the County to use Sandy Community/Seniors Center as a point of dispensing site for pharmaceuticals and commodities needed by county residents after a major emergency or disaster. Public Health developed this agreement for use of Sandy Community/Seniors Center to administer COVID-19 vaccinations through indoor community clinics.

**RECOMMENDATION:**

Staff respectfully recommends Board approval of the Facility Use Agreement between Clackamas County and Sandy Community/Seniors Center.

Respectfully submitted,

*Daniel Nibouar*

Daniel Nibouar, Interim Director

# FACILITIES USE AGREEMENT

between the

Sandy Community Services

and

Clackamas County

This Facilities Use Agreement (this “Agreement”) is entered into by and between City of Sandy/Sandy Community Services, hereinafter referred to as Partner, and Clackamas County, hereinafter referred to as County.

WHEREAS, Clackamas County is the Local Public Health Authority under ORS Chapter 431 for all cities and unincorporated areas within its borders; and

WHEREAS, the County is authorized by ORS Chapter 401 to establish procedures to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency; and

WHEREAS, the County and Partner desire to establish a relationship of cooperation in the event of a natural or human-caused public health or other emergency in Clackamas County where mass care, vaccination, medication, commodity (e.g., food, water) distribution centers and/or other activities become necessary for emergency activities; and

WHEREAS, the Partner is the owner of certain real property described as Sandy Community/Seniors Center 38348 Pioneer Blvd Sandy OR 97055(the “Property”) that can accommodate mass care, vaccination, medication, commodity distribution, and other activities that, in the event of a public health and/or other related regional emergency, would assist the County in performing its functions described above; and

WHEREAS, the County and Partner desire to establish an agreement for use of Partner’s Property in advance of potential public health or natural disasters;

NOW, THEREFORE, in consideration of the mutual obligations as described in this Agreement, the parties understand that:

A. Use of Property: Partner hereby grants County the right to use the Property for the following purposes, together with any use reasonably related to the same:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Point of distribution (vaccines, medication, commodities (e.g. food, water)) | <input type="checkbox"/> Landing zones  |
| <input type="checkbox"/> Sheltering for community members  | <input type="checkbox"/> Community reception / reunification / assistance centers |
| <input type="checkbox"/> Sheltering for small animals  | <input type="checkbox"/> Children disaster services                               |
| <input type="checkbox"/> Sheltering for large animals  | <input type="checkbox"/> Community meetings                                       |
| <input type="checkbox"/> Long-term housing trailers  | <input type="checkbox"/> General emergency response/coordination                  |

- B. Term: this Agreement shall be effective upon execution by both parties and shall terminate (1) upon mutual written consent of the parties; (2) for convenience following thirty (30) days' written notice to the other party, or (3) upon breach of the terms of this Agreement.
- C. Compensation: County shall compensate Partner as follows [CHECK ONE]:
- Partner agrees not to charge any fee for County's use of the Property.
  - County will pay Partner the sum of \$ [INSERT COMPENSATION SCHEDULE].
- D. Dates of Use: Upon notice by County of the occurrence of an emergency or other event necessitating County's requested use of the Property, Partner shall vacate the Property, or portions thereof, at a date and time mutually agreed upon by the parties.
- E. Partner's Responsibilities: Partner's responsibilities for County's use of the Property are as follows:
- a) Partner makes no warranty or representation about the Property. County accepts the Property "AS IS." The parties will jointly conduct a pre-occupancy survey of the Property before County takes possession, and agree to record any existing damage or conditions.
  - b) Partner shall make personnel available, at County's expense, to address facility-related issues that may occur during the time the County is making use of the Property.
  - c) Partner shall identify and maintain a current contact list, attached hereto as Attachment A and incorporated by this reference herein, for the following applicable Property-related contacts:
    - 1. Security systems;
    - 2. Electrical systems;
    - 3. Refrigeration systems;
    - 4. Heating and cooling; and
    - 5. Facilities Management.
  - d) Unless otherwise agreed to by the parties in writing, Partner shall be responsible for all utility services, and associated fees and charges, to the Property.
- F. County's Responsibilities: County's responsibilities for use of the Property are as follows:
- a) County agrees to leave the Property in its original, clean condition. County will remove all equipment and personal property brought onto the Property. County will use reasonable care to prevent damage to the Property. County shall be responsible for any cleaning, repair, or remediation costs arising from or related to County's use of the Property.
  - b) The County will not make any changes or modifications to the facilities without Partner's prior written approval.

- c) The County will notify Partner as soon as practicable when the Property has been cleared and is available for re-occupancy by the Partner.
- G. Indemnification: Subject to the limitations of the Oregon Tort Claims Act (ORS 30.260 – 30.300) and the Oregon Constitution, Article XI, Section 10, County agree to indemnify and hold Partner harmless against any and all claims, dues, and demands arising from the negligence of County, its officers, agents, invitees and/or employees resulting from or occurring during the above stated use of the Property.
- H. Insurance. The parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
- I. Oregon Law and Forum. This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon. Any claim between County and Partner that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- J. Compliance with Applicable Law. Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- K. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- L. Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. 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. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by such party of that or any other provision.
- M. Independent Contractor. Each of the parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each party hereby specifically disclaims any such relationship.

- N. No Third-Party Beneficiary. Partner and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or 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.
- O. Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- P. Necessary Acts. Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- Q. Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. Contact Information

Unless specified otherwise, for purposes of this Agreement the following persons will serve as the official points of contact for each party:

Clackamas County Disaster Management	Sandy Community Services
Daniel Nibouar	Sarah Richardson
Interim Director	Recreation Manager
1710 Red Soils Ct, Ste 210	38348 Pioneer Blvd
Oregon City, OR 97045	Sandy, OR 97055
(503) 655-8665	503-489-2150
dnibouar@clackamas.us	srichardson@ci.sandy.or.us

S. Third Parties.

County may use one or more third parties to assist in performing the mass care, vaccination, medication, commodity distribution, and other public health or related regional emergency activities described above. Partner hereby acknowledges and agrees that County may permit such third parties to use the Property, subject to the terms and conditions permitted under this Agreement.

T. No Attorney Fees.

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

*(Signature Page Follows)*

SIGNATURE PAGE TO FACILITY USE AGREEMENT BETWEEN CLACKAMAS  
COUNTY AND CITY OF SANDY

CLACKAMAS COUNTY

SANDY COMMUNITY SERVICES

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

By:  
Its:

*Sarah Richardson*

APPROVED AS TO FORM:

*[Signature]* 10/12/2021  
\_\_\_\_\_  
County Counsel

# ATTACHMENTS

## Sandy Community/Seniors Center

Facility Physical Address: 38348 Pioneer Blvd, Sandy Oregon 97055

The following are primary decision maker contacts for the above listed facility in order of first responsibility as of October 7, 2021:

Call down order	Name	Title/Role	Office Phone	Cell Phone	Email
1	Sarah Richardson	Recreation Manager	502-489-2150	503-334-2696	srichardson@ci.sandy.or.us
2	Carol Cohen		503-489-2151		
3	Tyler Deems		503-326-1079		
4					
5					
6					

Contacts for key facility systems are:

System	Name	Title/Role	Office Phone	Cell Phone	Email
Security					
Electrical					
Refrigeration					
Heating and cooling					
Facilities Management					





**DAN JOHNSON**  
DIRECTOR

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

October 28, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Amendment No. 1 of a Supplemental Project Agreement No. 32607 with  
Oregon Department of Transportation for the  
South End Road at MP 3.8 Project

<b>Purpose/Outcomes</b>	Using Federal Emergency Relief Program (ERP) funds, this agreement allows Clackamas County to proceed with the final design and construction of improvements needed to stabilize the roadway and slope on South End Road at Milepost 3.8.
<b>Dollar Amount and Fiscal Impact</b>	Overall Project Cost Estimate: \$4,588,463 Federal Emergency Relief Program funds: \$4,117,228 County Road Fund match (10.27% min): \$471,235
<b>Funding Source</b>	Federal Emergency Relief Program (ERP) and Clackamas County Road Funds.
<b>Duration</b>	Execution until completion of the project.
<b>Previous Board Action</b>	01/01/17: BCC Approval of Master Certification Agreement No. 30923 for County implementation of federally funded projects. 08/16/18: BCC Approval of Supplemental Project Agreement No. 32607 for 2017 Emergency Relief Program Project Funding. 05/16/19: BCC Approval of a Contract with David Evans and Associates, Inc. for the South End Road at Milepost 3.8 Project. 11/25/20: BCC Approval of an Intergovernmental Agreement with the Oregon Department of Transportation for Right of Way Services for the South End Road at Milepost 3.8 Project. 12/10/20: BCC Approval of a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property for the South End Road at Milepost 3.8 Project and Authorizing Good Faith Negotiations and Condemnation Actions. 10/19/21: Discussion item at issues
<b>Strategic Plan Alignment</b>	1. How does this item align with your department's Strategic Business Plan goals? This item supports the DTD Strategic Focus on Safe Roads and Strategic Result of "Travelers on Clackamas County roads will experience roads in good condition." 2. How does this item align with the County's Performance Clackamas goals? This item aligns with "Build a Strong Infrastructure" by constructing retaining walls to mitigate slope instability.
<b>Procurement Review</b>	Was this item processed through Procurement? No
<b>Counsel Review</b>	Counsel Date: 09/30/2021 Counsel Initials; NB
<b>Contact Person</b>	Joel Howie, Civil Engineering Supervisor 503-742-4658

**BACKGROUND:**

Clackamas County obtained Federal Emergency Relief Program (ERP) funds to stabilize the roadway and slope on South End Road at Milepost 3.8. The road was damaged in March of 2017 as a result of heavy rains that occurred during the spring of 2017. A state emergency declaration, which included Clackamas County, was signed by the governor allowing Clackamas County to be eligible for the ERP funding.

Amendment No. 1 to the Supplemental Project Agreement is required to incorporate language stating the Clackamas County's certification status in in ADA processes, increased project costs, revised ADA language, and revised indirect cost rate language. Amendment No. 1 does not change the duration of the agreement, which is completion of final billing within ten years after execution of the Supplemental Project Agreement, which occurred on August 28, 2018.

The project's previous total estimated cost was \$2,740,000, which assumed the stabilization would consist of a 600-foot-long deep roadway excavation and repair, and a 250-foot-long soldier pile retaining wall. After a detailed study and monitoring of the landslide's geology, the stabilization will consist of a 450-foot long tie back/soldier pile wall and a 318-foot long cantilever wall. The project's new total estimated cost is \$4,588,463 with funding comprised of Federal ERP funds (\$4,117,228) and County matching funds from the Road Fund (10.27% min) (\$471,235).

**RECOMMENDATION:**

Staff respectfully recommends that the Board of County Commissioners approve the attached Amendment No. 1 of the Supplemental Project Agreement with the Oregon Department of Transportation for the South End Road at MP 3.8 Project as listed in the agreement.

Respectfully submitted,

*Joel Howie*

Joel Howie,  
Civil Engineering Supervisor

**AMENDMENT NUMBER 01  
LOCAL AGENCY CERTIFICATION PROGRAM  
EMERGENCY RELIEF PROGRAM  
South End Road at MP 3.8**

This is Amendment Number 01 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as “State” or “ODOT,” and **Clackamas County**, acting by and through its elected officials, hereinafter referred to as “Agency,” entered into on August 28, 2018.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to update the Agency’s certification status, Emergency Relief Program funds available for the project, Agency’ indirect cost rate, and ADA language.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

a. **RECITALS, Paragraph 2, Page 1, which reads:**

2. Certification status information as of the date of execution of this Agreement:

a. Agency is fully certified in the following functional areas:

- design (excluding bridge design)
- “advertise, bid, and award” for construction contracts
- construction contract administration

b. Agency is pursuing certification and is in the process of completing the test project required by ODOT for the Agency to become fully certified in the following functional area:

- consultant selection (formal and informal processes)

The Parties are in the process of assessing the Agency’s test project and required program documents to transition the Agency from conditional to full certification for the functional areas listed in this subsection, and anticipate a successful transition. Therefore, the project described in this Agreement is not one of the test project(s) described in the Local Agency Certification Program Agreement for the functional areas listed in this subsection.

**Shall be deleted in its entirety and replaced with the following:**

2. Certification status information as of the date of execution of this Agreement:

- a. Agency is fully certified in the following functional areas:
  - consultant selection (formal and informal processes)
  - design (excluding bridge design)
  - “advertise, bid, and award” for construction contracts
  - construction contract administration
- b. Agency is conditionally certified in the following functional areas:
  - consultant selection (direct appoint process)
- c. Agency is not currently seeking certification in the following functional area:
  - bridge design
- d. The project described in this Agreement may be used as one of the required test projects described in Local Agency Certification Program Agreement that Certified Agency must perform in order to obtain full certification in the following functional area:
  - consultant selection (direct appoint process)
- e. Agency has had its Americans with Disabilities Act (ADA)-related design exception and curb ramp inspection processes reviewed and approved by ODOT and FHWA for use on federally funded projects.

**b. TERMS OF AGREEMENT, Paragraph 2, Page 2, which reads:**

2. The Project will be conducted as a part of the Emergency Relief Program (ERP) under Title 23, United States Code and the total Project cost is estimated at \$2,740,000, which is subject to change. The Project will be financed with ERP funds, which are estimated in the amount of \$2,458,602, and will not exceed that amount without approval of the Federal Highway Administration (FHWA). The Project will be financed with ERP funds at the maximum allowable federal participating amount, which is 89.73 percent (89.73%), with Agency providing the 10.27 percent match for eligible costs and paying for any non-participating costs, including all costs in excess of available federal funds. Any unused federal or state funds will be retained by State, and will not be available for use by Agency for this Agreement or any other projects. “Total Project Cost” means the estimated cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds. Agency will report the final cost of each phase of the Project at the completion of each phase, as well as the Total Project Cost at the end of the Project, to the State’s Regional Local Agency Liaison.

**Shall be deleted in its entirety and replaced with the following:**

2. The Project will be conducted as a part of the Emergency Relief Program (ERP) under Title 23, United States Code, and the total Project cost is estimated at \$4,588,463, which is subject to change. The Project will be financed with ERP funds, which are estimated in the amount of \$4,117,228, and will not exceed that amount without approval of the Federal Highway Administration (FHWA). The Project will be financed with ERP funds at the maximum allowable federal participating amount, which is 89.73 percent (89.73%), with Agency providing the 10.27 percent match for all eligible costs. Any unused federal or state funds obligated to this Project will not be paid out by State, and will not be available for use by Agency for this Agreement or any other projects. "Total Project Cost" means the cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds. Agency will report the final cost of each phase of the Project at the completion of each phase, as well as the Total Project Cost at the end of the Project, to the ODOT Regional Local Agency Liaison.

**c. TERMS OF AGREEMENT, Paragraph 9, Page 3, which reads:**

9. Indirect Cost Rate.

- a. As required by 2 CFR 200.331(a)(4), the indirect cost rate(s) for this project at the time the agreement is written is 35.57 percent ( 35.57%). This rate may change during the term of this Agreement upon notice to ODOT and ODOT's subsequent written approval.
- b. If the approved rate changes during the term of this Agreement, Agency shall invoice ODOT using the current indirect cost rate(s) for the Project on file with ODOT at the time the work is performed. If Agency does not have an approved indirect cost rate on file with ODOT at the time the work is performed, Agency shall invoice ODOT using a zero percent (0%) rate.

**Shall be deleted in its entirety and replaced with the following:**

- a. As required by 2 CFR 200.331(a)(4), the indirect cost rate(s) for this project at the time the agreement is written is 36.07 percent (36.07%). This rate may change during the term of this Agreement upon notice to ODOT and ODOT's subsequent written approval.
- b. If the approved rate changes during the term of this Agreement, Agency shall invoice ODOT using the current indirect cost rates for the project on file with ODOT at the time the work is performed. If Agency does not have approved indirect cost rates on file with ODOT at the time the work is performed, Agency shall invoice ODOT using a zero percent (0%) rate.

**d. TERMS OF AGREEMENT, Paragraph 10 Page 3, which reads:**

10. Agency Work on this Project:

- a. Agency shall perform the following functional areas in which Agency is fully certified and as authorized by the Local Agency Certification Program Agreement:
  - design (excluding bridge design)
  - “advertise, bid, and award” the construction contract
  - construction contract administration
- b. While Agency is in the process of transitioning from conditional to full certification, by the terms of this Agreement and for only this Project, Agency is authorized and shall perform as if fully certified in the following functional area:

- consultant selection (formal and informal processes)

Agency understands that this Project is subject to the terms and conditions of the Local Agency Certification Program Agreement and may also be subject to the terms of a corrective action plan and increased monitoring if ODOT’s evaluation of Agency’s test project(s) or program documents identifies the need for corrective action.

**Shall be deleted in its entirety and replaced with the following:**

10. Agency Work on this Project:

- a. As applicable to this Project, Agency shall perform the following functional area(s) in which Agency is fully certified and as authorized by the Local Agency Certification Program Agreement; and consultant selection certification approval letter, marked “Exhibit C,” and by this reference made a part hereof:
  - consultant selection (formal and informal processes)
  - design (excluding bridge design)
  - “advertise, bid, and award” for construction contracts
  - construction contract administration
- b. Agency agrees that if it hires a consultant for this Project using the direct appoint process, and this is the Agency’s first time following the direct appoint process, the Project must be used as a test project. Agency understands that this Project is subject to the terms and conditions of the Local Agency Certification Program Agreement and may also be subject to the terms of a corrective action plan and increased monitoring if ODOT’s

evaluation of Agency's test project(s) or program documents identifies the need for corrective action.

**e. TERMS OF AGREEMENT, Paragraph 19, Pages 4-6, which reads:**

**19. Americans with Disabilities Act Compliance:**

a. General: Agency agrees to comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA) as identified in paragraph 1 of the General Provisions section of Local Agency's Certification Program Agreement, and to utilize ODOT standards to assess and ensure Project compliance with the ADA.

b. **ADA Design Standards and Construction Specifications:** Agency agrees to comply with ODOT's current ADA-related design standards, construction specifications, and design exception documentation and approval requirements for design, modification, upgrade, or construction of Project sidewalks, curb ramps, and pedestrian activated signals on both the Oregon State Highway System (state highway) and on the local agency system, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, and current ODOT Curb Ramp Inspection form.

i. **ADA Inspection Forms:** Prior to issuing the Second Notification pursuant to Oregon Standard Specification 00180.50(g), or Agency's approved equivalent, Agency agrees to submit an ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Regional Local Agency Liaison for each curb ramp designed, constructed, upgraded, or modified for this Project. The completed form is the required documentation from Agency showing that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form 734-5020 and instructions are available at the following website:

<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>

ii. **State inspection:** Agency shall promptly notify State of Project completion and allow State to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Agency and prior to release of any Agency contractor.

c. **Work Zone Access:** Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational

signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.

- d. **Reimbursement:** Unless Agency has an approved design exception, State will only reimburse Agency for work that meets the applicable ODOT standards, regardless of whether the work is on a State-owned or an Agency-owned facility.
- e. **On-going Maintenance Obligation:** Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
  - i. Pedestrian access is maintained as required by the ADA,
  - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian- activated signal safety or access issues are promptly evaluated and addressed,
  - iii. Any repairs or removal of obstructions needed to maintain Project features in compliance with the ADA requirements that were in effect at the time of Project construction are completed by Agency or abutting property owner pursuant to applicable local code provisions,
  - iv. Any future alteration work on the Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
  - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- f. **Survival:** Maintenance obligations in this section shall survive termination of this Agreement.

**Shall be deleted in its entirety and replaced with the following:**

**19. Americans with Disabilities Act Compliance:**

- a. **General:** Agency agrees to comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA") as identified in paragraph 1 of the **General Provisions** section of the Local Agency Certification Program Agreement.



**b. ADA Design Standards, Construction Specifications, and Inspections:**

Agency agrees to comply with the design and construction standards and the design exception documentation and approval requirements agreed to in the **Standards** section of the Local Agency Certification Program Agreement. In addition, with respect to ADA-related design standards, design exception approvals, construction specifications, and inspections, Agency agrees to comply with the following:

- i. For portions of the Project on or along the Oregon State Highway System (state highway), Agency shall apply ODOT's current ADA-related design standards, construction specifications, and design exception documentation and approval requirements for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, as applicable to the Project, **including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, and providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form.** Agency further agrees to utilize ODOT standards to assess and ensure Project compliance with the ADA, and to document ramp inspections per subsection (c.)(i.) below. Design exceptions on State-owned facilities must be approved by State. For project locations on or along State-owned portions of the National Highway System ("NHS") design exceptions must be approved by State and/or FHWA.
  - ii. For portions of the Project **not** on or along a state highway, including locally-owned portions of the NHS, Agency shall apply its own ADA-compliant design standards, construction specifications, design exception documentation and approval process, and inspection documentation process, as approved by State and FHWA for use on federally funded projects.
- c. ADA Inspection Forms:** Prior to issuing the Second Notification, per Oregon Standard Specification 00180.50(g) or Agency's approved equivalent, Agency agrees to submit to State the following:

- i. For all curb ramps constructed or altered as part of this Project on or along a state highway, submit completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Regional Local Agency Liaison. The completed form is the required documentation from Agency that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form 734-5020 and instructions are available at the following website:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

- ii. For all curb ramps not located on or along a state highway, Agency shall complete and keep on file Agency's ODOT- and FHWA-approved ADA

curb ramp inspection form (or other approved document) to show that each Project curb ramp meets Agency's curb ramp standards and is ADA compliant or conforms to Agency's approved ADA design exception.

- d. **State inspection:** Agency shall promptly notify State of Project completion and allow State to inspect Project sidewalks, curb ramps, and pedestrian-activated signals, as applicable to the Project, located on or along the a state highway prior to acceptance of Project by Agency and prior to release of any Agency contractor.
- e. **Work Zone Access:** Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone in accordance with the applicable ODOT or Agency Standards, as set forth in subsections (a) through (c) above. For any work zone on or along the state highway, any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route on or along the state highway is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction in accordance with ODOT standards and processes.
- f. **Reimbursement:** Unless Agency has an approved design exception, State will only reimburse Agency for work that meets the applicable ODOT or Agency standards as set forth in subsections (a) through (c) above, regardless of whether the work is on a State-owned or an Agency-owned facility.
- g. **On-going Maintenance Obligation:** Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
  - i. Pedestrian access is maintained as required by the ADA,
  - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed pursuant to applicable statutes and ordinances,
  - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
  - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and

- v. Applicable permitting and regulatory actions are consistent with ADA requirements.
  - h. **Survival:** Maintenance obligations in this section shall survive termination of this Agreement.
  - f. **Insert new Exhibit C, the consultant selection certification approval letter, which shows the updated certification status.**
3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

**Signature Page to Follow**

Agency/State  
Agreement No. 32607-01/73000-00003564

**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 elected officials

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**LEGAL REVIEW APPROVAL**  
(If required in Agency's process)

By \_\_\_\_\_  
Agency Counsel

Date \_\_\_\_\_

**Agency Contact:**

Joel Howie  
Civil Engineering Supervisor  
150 Beaver Creek Rd  
Oregon City, OR 97045  
503.742.4658  
[jhowie@co.clackamas.or.us](mailto:jhowie@co.clackamas.or.us)

**STATE OF OREGON**, by and through its Department of Transportation

By \_\_\_\_\_  
Delivery and Operations Division Administrator

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Certification Program Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By Herbert Lovejoy via email  
Assistant Attorney General

Date 8/25/2021

**State Contact:**

Mahasti Hastings  
Local Agency Liaison  
123 NW Flanders St  
Portland, OR 97209  
503.731.8595  
[mahasti.v.hastings@odot.state.or.us](mailto:mahasti.v.hastings@odot.state.or.us)

Exhibit C



Oregon

Kate Brown, Governor

Department of Transportation  
Transportation Development Division  
555 13<sup>th</sup> Street NE, Suite 2  
Salem, OR 97301  
Phone: (503) 986-4175  
Fax: (503) 986-4174

March 15, 2019

Joel Howie  
Clackamas County Department of Transportation  
150 Beaver Creek Road  
Oregon City, OR 97045

**RE: Clackamas County Consultant Selection Certification & Demonstration Evaluation Results, Formal Procurement**

Dear Joel,

This letter is to notify you of the results and needed follow-up regarding Clackamas County's application for certification in consultant selection and your January 15, 2019 formal consultant selection demonstration project presentation. See the attached 3/15/19 letter with certification recommendations from the ODOT Procurement Office.

**Foundational Requirements:** Per Section B of the 2018 Local Agency Guidelines (LAG) for Certified Local Public Agencies (LPAs), Clackamas County has satisfied the requirements to become certified in consultant selection based on having ODOT-approved foundational documents and meeting the staff training requirements for direct appointment, informal, and formal consultant selection.

**Demonstration Requirements:** Per Section C, Chapter 12 of the LAG for Certified LPAs, ODOT has evaluated the County's demonstration project, Canby Ferry Bank Stabilization & ITS (KN 19641), for adherence to formal and informal procurement processes outlined in the LPA A&E Requirements Guide. While there were not fatal flaws with the procurement presented, ODOT identified deficiencies that need to be addressed through future corrective action. See the attached Review and Corrective Action Report form dated 2/27/19 with details and the requested action with respect to the County's next formal procurement. The County's response with a corrective action plan is requested by 4/16/19.

A separate demonstration project is still required for the County's first use of the direct appoint/small purchase method (see Section C, Chapter 12). Please note, certification in consultant selection does not authorize the County to issue work order contracts against ODOT price agreements.

**Contract Administration Demonstration:** The next steps are to administer the consultant contract for Canby Ferry Bank Stabilization & ITS (KN 19641) in accordance with the contract administration processes set out in section 3.7 of the LPA A&E Requirements Guide. Please note the DBE forms and procedures requirements in 3.4.2 and the documentation requirements in section 4. The County's compliance with consultant contract administration requirements will be reviewed during the Certification Program annual project compliance review. For more information, see "Consultant Contract Administration" in Section C, Chapter 12 of the LAG for Certified LPAs.

Please don't hesitate to give me a call with questions or concerns. We look forward to working with you.

Sincerely,

Tiffany Hamilton, JD  
Local Agency Certification Program Manager  
Office: (503) 986-3649

Cc: Mahasti Hastings, ODOT Region 1 Local Agency Liaison  
Kim Rice, ODOT Procurement Office



**DAN JOHNSON**  
DIRECTOR

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

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with Harper Houf Peterson Righellis, Inc. for the  
362<sup>nd</sup> Paved Shoulders and Safety Improvement Project**

<b>Purpose/Outcome</b>	Contract will provide project management, plans, specifications, and estimation design services for 362 <sup>nd</sup> safety improvements.
<b>Dollar Amount and Fiscal Impact</b>	Contract total \$247,232.50
<b>Funding Source</b>	Strategic Investment Funds by Community Road Fund and partially matched by System Development eligible Funds
<b>Duration</b>	June 30, 2023
<b>Previous Board Action/Review</b>	10/19/2021: Discussion item at issues
<b>Strategic Plan Alignment</b>	1. How does this item align with your department's Strategic Business Plan goals? The public's increasing expectation that the transportation system will be safer and support a healthier community. 2. How does this item align with the County's Performance Clackamas goals? The project will: a. Build a strong infrastructure, and b. Ensure safe, healthy and secure communities.
<b>Counsel Review</b>	1. Date of Counsel review: 10/12/21 2. Initials of Counsel reviewer: AN
<b>Procurement Review</b>	Was the item processed through Procurement? Yes
<b>Contact Person</b>	Bob Knorr, Project Manager, 503-742-4680
<b>Contract No.</b>	4160

**Background:**

Paved shoulders are needed on both sides of the road on 362nd Avenue from Skogan Road to OR211 south and west of Sandy, Oregon. The existing shoulders are very narrow and steep resulting in a safety concern if vehicles veer off the roadway.

The consultant contract will provide project management; topographic survey; environmental and stormwater management services; utility coordination; traffic engineering; public outreach; development of plans, specifications and estimates; and bid assistance through bid award for the 362nd Paved Shoulders & Safety Improvements Project.

The County has secured Strategic Investment Funds established by the Community Road Fund, and partially matched by System Development eligible Funds ("SDCs"), to improve safety along

this section of roadway by widening and paving existing shoulders and investigating and making an evaluation of safety issues at the intersection of SE 362nd Avenue and SE Colorado Road. The project will identify and implement low, to medium-cost countermeasures to increase safety .

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on April 8, 2021. Proposals were opened on March 10, 2021. The County received five (5) Proposals: KPFF, Inc.; PBS Engineering; David Evans and Associates; Cardno; and Harper Houf Peterson Righellis, Inc. An evaluation committee of four DTD personnel evaluated the proposals. The evaluation committee scored Harper Houf Peterson Righellis, Inc. the highest. Following the intent to award, the scope of work and project designs fees were negotiated and finalized.

**Recommendation:**

Staff respectfully recommends that the Board approve and execute the Contract with Harper Houf Peterson Righellis, Inc. for the 362nd Paved Shoulders and Safety Improvement Project

Sincerely,

*Bob Knorr*

Bob Knorr  
Project Manager

Placed on the BCC Agenda \_\_\_\_\_ by Procurement and Contract Services





**CLACKAMAS COUNTY  
PERSONAL SERVICES CONTRACT  
Contract #4160**

This Personal Services Contract (this “Contract”) is entered into between **Harper Houf Peterson Righellis, Inc.** (“Contractor” or “Consultant”), and Clackamas County, a political subdivision of the State of Oregon (“County”) on behalf of the Department of Transportation and Development.

**ARTICLE I.**

1. **Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **June 30, 2023**.
  
2. **Scope of Work.** Contractor shall provide the following personal services: Design service for the 362<sup>nd</sup> pave shoulders and safety improvement project (“Work”), further described in **Exhibit A**.
  
3. **Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed **two hundred forty-seven thousand two hundred thirty-two dollars and fifty cents (\$247,232.50)**, for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in Exhibit B. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit B.
  
4. **Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The invoices shall include the total amount billed to date by Contractor prior to the current invoice. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. Invoices shall reference the above Contract Number and be submitted to: Bob Knorr.
  
5. **Travel and Other Expense.** Authorized:  Yes    No  
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.
  
6. **Contract Documents.** This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, and Exhibit B.

**7. Contractor and County Contacts.**

Contractor Administrator: Dan Houf Phone: 503-221-1131 Email: <a href="mailto:dan@hhpr.com">dan@hhpr.com</a>	County Administrator: Bob Knorr Phone: 503-742-4680 Email: <a href="mailto:rknorr@clackamas.us">rknorr@clackamas.us</a>
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Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

## **ARTICLE II.**

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 2. AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
- 5. COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of

or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.

**8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.

**9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

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

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

**10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.
- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.
- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in the same professional skill, care, diligence and standards as other professionals performing similar services under similar conditions. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided. The Contractor shall be responsible for the technical accuracy of its services and documents resulting therefrom, and District shall not be responsible for discovering deficiencies therein. The Contractor shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in information furnished by the District.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, and 29 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by

operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.  
  
Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

**24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

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

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

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

**27. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.

**28. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

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

ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

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

Harper Houf Peterson Righellis, Inc.

Clackamas County

Daniel S Houf

Digitally signed by Daniel S Houf  
DN: C=US, E=Dan@hhpr.com,  
O=Harper Houf Peterson Righellis  
Inc, CN=Daniel S Houf  
Date: 2021.10.12 08:13:28-0700'

10/12/2021

Authorized Signature Date  
Daniel S. Houf, P.E./President

Chair Date


Name / Title (Printed)

Recording Secretary

227670-81  
Oregon Business Registry #

Approved as to Form:

DBC/Oregon  
Entity Type / State of Formation

 10/12/2021  
County Counsel Date

## **EXHIBIT A SCOPE OF WORK**

Paved shoulders are needed on both sides of the road on 362<sup>nd</sup> Avenue from Skogan Road to OR211 south and west of Sandy, Oregon. The existing shoulders are very narrow and steep resulting in a safety concern if vehicles veer off the roadway.

The County has secured Strategic Investment Funds established by the Community Road Fund, and partially matched by System Development eligible Funds (“SDCs”), to improve safety along this section of roadway by widening and paving existing shoulders and investigating and making an evaluation of safety issues at the intersection of SE 362<sup>nd</sup> Avenue and SE Colorado Road. The project will identify and implement low, to medium-cost countermeasures to increase safety by reducing the number and severity of crashes should they occur.

### **PROJECT UNDERSTANDING**

The project (the “Project”) will improve safety, by widening and paving shoulders on 362<sup>nd</sup> Avenue between Skogan Road and OR 211. Also, the existing intersection of 362<sup>nd</sup> Avenue at SE Colorado Road will be evaluated for potential safety improvements, and low to medium-cost safety improvements will be implemented. In keeping with the project’s original intent only 70% of the shoulder will be built to full width (4,800 LF). The initial cost estimate was developed presuming shoulders will be widened where it’s easiest to do so and there isn’t the need to obtain permanent right of way easements, lengthen culverts, and build walls and impact streams.

Stormwater management shall be designed and constructed utilizing Best Management Practices (“BMP”) and Low Impact Development Approaches (“LIDA”) per Water Environmental Services design standards as adopted by Clackamas County DTD.

### **Project Limits:**

362<sup>nd</sup> Avenue between Skogan Rd southward to OR211. Proposed realignments or upgrade extents shall be limited as much as practical.

### **Lane Configuration/Geometry:**

362<sup>nd</sup> Avenue: Generally, 2-lane cross section with mostly unpaved, narrow, steep shoulders.

### **Water Quality/Quantity:**

Best Management Practices (BMP) and Low Impact Development Approaches (LIDA) per Water Environmental Services design standards as adopted by Clackamas County Department of Transportation and Development (DTD).

### **Franchise Utilities:**

Relocate overhead as necessary, relocate for utility conflicts by utilities.

### **Sanitary/Water:**

This is a rural setting where no municipal sanitary/water systems are anticipated outside of private well and septic and/or a locally run water district systems.

### **Natural Resources:**

No impacts are anticipated. If impacts are unavoidable, additional services needed to address those impacts will be covered under contingency tasks.

### **Landscaping:**

Grass seed shall be shown to match existing landscaping as needed.

**Public Involvement/Outreach:**

Public involvement will consist of mailed public information and a display board that can be used at a CPO meeting or community open house and posted online.

**Right-of-Way (ROW):**

It is assumed and expected no right of way is required for this project. The project footprint must remain within the public right of way. Should the need arise for any sort of simple acquisitions, such as TCEs, the County will facilitate the acquisitions.

**Project Phasing:**

The project is to be completed in two phases. The first phase is preliminary engineering and bidding for a construction contract. The second phase is construction. Construction phase services are not included in this scope of work and the County may request additional scope of work services at a later date for the second phase.

**SPECIFIC SCOPE OF SERVICES**

**SUMMARY OF WORK**

“Consultant” shall provide services including project management, survey, environmental and stormwater/hydraulic services, utility coordination, geotechnical, traffic engineering, public outreach assistance, and the development of both preliminary design criteria and final PS&E (Plans, Specifications and Estimates) design, right-of-way services, and bid assistance up through bid award for this project based on the scope of services described herein.

- Task 1.0 Project Management and Project Coordination
- Task 2.0 Survey, Field Investigations and Mapping
- Task 3.0 Environmental Services
- Task 4.0 Stormwater / Hydraulics Related Services
- Task 5.0 Utility Coordination
- Task 6.0 Traffic Engineering and Management
- Task 7.0 Preliminary Design (30%)
- Task 8.0 Public Involvement/Outreach Assistance
- Task 9.0 Final Design (, 90%, and 100% Bid Ready)
- Task 10.0 Bid and Award Assistance

The duration of the design of this project is assumed to be from October 2021 through June 2023 for the completion of design tasks. Bidding and Construction will occur between April 2023 and October 2023. This scope of services does not include construction engineering or construction support, which may be added at the discretion of the County towards the end of the design phase through a contract amendment.

**Task 1.0 Project Management and Project Coordination**

Consultant shall provide management and coordination of services under this Scope of Work (SOW) for delivery of Tasks and Deliverables according to the agreed upon delivery schedule.

**1.1 Administration & Record Keeping**

Consultant shall:

- Prepare a Project design schedule using the Critical Path Method. The Project schedule must include all major authorized tasks as agreed upon by the Parties, Project design team meetings, and milestones (type and date) specified in this SOW and required to complete all services under this Contract. Updates to the Project schedule shall be made during the course of the Project if milestone dates are modified. For budgeting purposes, it is assumed that up to two (2) Project schedule updates will be necessary.
- Prepare invoices and progress reports. For budgeting purposes, it is assumed that up to fourteen (14) progress reports will be necessary. Each progress report must:
  - Include a summary of previous period’s activities and the planned activities for the upcoming period;



- Identify percentage completed of each Task/Deliverable;
  - Reconcile the budget with the actual amount billed to date;
  - Identify unresolved issues and concerns that may affect the SOW, schedule and/or budget for services.
- Develop and maintain a Project file to include engineering computations, assumptions, meeting agendas and minutes, working drawings, quality control and review documentation, correspondence, and memoranda.

***Task 1.1 - Deliverables and Schedule***

*Consultant shall provide:*

- *Project Design Schedule submitted within five (5) business days of Notice to Proceed (NTP). Submit electronically in PDF format and electronic file (MS Project) format to the County Project Manager (CPM).*
- *Updated Project Design Schedule, as necessary, via timeline agreed to by CPM.*
- *Progress reports and invoices submitted electronically to CPM no later than the 20th calendar day of the month following the reporting period.*

**1.2 Coordination**

Consultant shall:

- Coordinate with the CPM as the main point of contact for coordination and management of Consultant services under the Contract;
- Contact other County staff, and regulatory County staff, if necessary, throughout the Contract, to gather any additional information needed for the Project, Project site, regulations and guidance;
- Provide overall management, direction and coordination of staff (including sub-consultants, if any) to include any necessary internal Consultant staff meetings;
- Contact CPM via telephone on a biweekly basis to provide Project status information

***Task 1.2 - Deliverables and Schedule***

*Consultant shall provide:*

- *On-going coordination and communication as needed to appropriately manage the services under this Contract (no tangible deliverables for this task).*

**1.3 Project Meetings 1.3.1 Project Kickoff Meeting**

Consultant shall organize, conduct, prepare for and attend a Project kickoff meeting. The Project kickoff meeting will be held at the Department of Transportation offices of Clackamas County or via web-based platform with the CPM, the Consultant’s PM and other necessary project stakeholders and Consultant staff in attendance. Consultant shall prepare the meeting agenda with input from the CPM. The purpose of the Project kickoff meeting is to review Project issues such as SOW; work products and deliverables; schedules; budgets; right of way; utility coordination/design; design criteria; guidance documents and standards, and quality control. Consultant shall schedule Project kickoff meeting within five (5) business days of (NTP). Consultant shall prepare draft meeting minutes for review. For budgeting purposes, it is assumed that up to two (2) Consultant staff shall attend the two (2) hour Project kickoff meeting.

**1.3.2 Project Development Team Meeting**

Consultant shall organize, conduct, prepare for and attend up to one (1) in person or web-based Project Development Team (PDT) Meeting to review the Preliminary Design (30%). This meeting will be held at the Department of Transportation offices of Clackamas County or via web-based meeting platform with the CPM, the Consultant’s PM and other necessary project stakeholders and Consultant staff in attendance. The Consultant shall prepare the meeting agenda with input from the CPM. Consultant shall prepare draft and final meeting minutes to be distributed to CPM and all other meeting participants. For

budgeting purposes, it is assumed that up to two (2) Consultant staff shall attend the two (2) hour Preliminary Design (30%) meeting.

### **Task 1.3 - Deliverables and Schedule**

For each meeting, Consultant shall provide:

- Meeting agenda submitted electronically to CPM and all other meeting participants two (2) business days prior to meeting.
- Draft meeting minutes submitted electronically to CPM and all other meeting participants within two (2) business days of meeting.
- Final meeting minutes submitted electronically to CPM and all other meeting participants within seven (7) business days of meeting.

### **Task 2.0 Survey, Field Investigations and Mapping**

Consultant shall survey this Project for the areas as described in Project understanding section of this SOW unless otherwise noted in specific tasks.

Specific to agency standards, Survey will follow Ground Confidence Point Analysis and Report standards as defined in the 2015 ODOT Survey Policy and Procedure Manual to ensure DTM accuracy along the entire project corridor.

All other project survey methods will adhere to Clackamas County Survey Standards and Procedures.

### **2.1 Research**

Consultant shall:

- Obtain the research data for the area as described in Project Understanding section of this SOW. Consultant shall perform data research as necessary to prepare for and support Project activities, and to produce Project maps and reports as called for in subsequent tasks. The typical records required for research are, but not limited to; vesting deeds, land sales contracts, County assessor plats and road records, subdivision plats, General Land Office plats, ODOT ROW drawings, railroad maps, County surveys, road dedications and vacations.

#### **2.1.1 Existing Vesting Deeds and Property Ownerships**

- While not an expected part of this project, if permanent right of way easements were to be acquired the County shall obtain all necessary preliminary title reports in lieu of “Trio listing kits” (typically provided by a Title Company). Consultant shall identify property ownership within and adjacent to the Project site by investigating property deeds and County tax records. Consultant shall itemize and report property ownership and owner contact information to CPM. Consultant shall submit each deed in its own electronic file. Consultant shall include all vesting deeds referenced in the Property Vesting Deeds if needed to resolve the property boundary.

#### **2.1.2 Existing Right of Way Records**

Consultant shall:

- Research and obtain copies of surveys, subdivision plats, and land partition plats filed in the County surveyor’s office related to the properties potentially impacted by the Project. This information is used to find monuments that might be impacted from the Project and establish property lines for area calculations when new ROW is acquired.
- Consultant shall research and obtain copies of County assessor maps, General Land Office plats, and County road records related to the properties potentially impacted by the Project.
- Consultant shall research and obtain available data about Government Public Lands Survey Corners and their references in the Project area as defined in the SOW.

### 2.1.3 Existing Horizontal/Vertical Control Stations

Consultant shall

- Research and obtain data about horizontal and vertical control points as required for the Project area including GPS stations, benchmarks, and prior Project control surveys from county, city, and other governmental agencies.

### 2.1.4 Existing Utility Records

Consultant shall

- Research and obtain available facility maps and as-built construction plan data pertaining to utilities in or near the Project area from the County, One-Call Service, County, city, or other governmental agencies and utility companies.

### **Task 2.1 - Deliverables and Schedule**

Consultant shall provide:

- *Incorporate information from this task into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks.*

### **2.2 Horizontal And Vertical Control Network**

The purpose of this task is to provide the means by which the Project can be located relative to horizontal and vertical datum, map projection, and coordinate systems. Consultant shall establish a horizontal and vertical control network using the datum associated with the Project area or as approved by the County. Reference the network and all mapping to the County approved vertical datum. The Horizontal Datum to be NAD 83(2011) epoch 2010.00 utilizing the Oregon Real Time Network (ORGN PDX Zone). The Horizontal Network shall be resolved using differential Real Time Kinematic (RTK) GPS observations along with Terrestrial ground measurements. The Vertical Datum shall be NAVD 88. A GPS derived elevation shall be utilized using the Oregon Real Time Network. Closed loop differential level measurements shall run through all of the on-site Control.

Consultant shall establish horizontal control according to County standards using Terrestrial (Theodolite and EDM), GPS (Static or Rapid Static) or a combination of both. Consultant shall set and adjust control points in conformance with County guidelines.

Consultant shall use 5/8" Rebar with plastic or brass caps, or other County approved control point, for the GPS and network points. Consultant shall establish a minimum of 3 GPS control points through the length of the survey.

Consultant shall establish vertical control using differential leveling. Consultant shall get County approval before using other methods such as trigonometric leveling and elevations derived from GPS.

### **Task 2.2 - Deliverables and Schedule**

Consultant shall provide:

- *Place control points in the ground at the Project location.*
- *Consultant shall incorporate the information listed below into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks.*
  - *An adjustment report for one or more of the following, Least Squares adjustment for networks, an approved traverse adjustment method for traverses and/or a GPS adjustment report when using GPS.*
  - *An ASCII file containing the coordinates for every network point set and found.*
  - *If the levels were electronically processed then one copy each of the following: original raw level file as collected in the field, ASCII file showing level closure data, ASCII file with elevations on all network points and/or an ASCII file showing the level rod readings.*
  - *Original field notes for the control network and one scanned copy of the original field notes in ".pdf" format.*

- *An Autodesk Civil3D file containing all the set and tied control points to show elevations.*
- *An Autodesk Civil3D containing all vertical and horizontal control points stored as cogo points to show elevations.*

## **2.3 Monument Recovery**

The purpose of this task is to address the requirements of ORS 209.150 and 209.155, and other survey related statutes for construction Projects.

Consultant shall survey for but not limited to: government corners, geodetic control stations, bench marks, ROW monuments, property boundary markers, and roadway alignment markers.

Identify, Search and Recover Monuments.

Consultant shall recover existing monuments to preserve the locations of any monuments of record that may be endangered by any activity related to the Project and to resolve roadways and property lines. Consultant shall provide a record (field notes) of monuments searched for, the date of the search and the results of the search.

### **Field Survey of Recovered Monuments**

Consultant shall locate, measure and document the location of survey markers and monuments of record for property boundaries and/or ROW needed within the areas.

### ***Task 2.3 - Deliverables and Schedule***

*Consultant shall provide:*

- *Incorporate the information gathered in this task including field notes into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks.*

## **2.4 Topographic Data, Detailed Base Map And Digital Terrain Model (DTM)**

The purpose of this task is to collect the existing topographic features and create a detailed basemap and DTM for the Project.

### **2.4.1 Topographic Data Collection**

Consultant shall:

- Collect topographic data between the boundaries described in the Project Understanding section of this SOW. Consultant shall collect and tie topographic data of man-made and/or natural features using a variety of County approved methods. These methods include but are not limited to: collecting the data using terrestrial (Theodolite and EDM), GPS (RTK), 3D Laser Scanning, or station and offset.
- Consultant shall contact Oregon Utility Notification Center to request a pre-survey utility locates. Consultant shall keep the locate request number and ticket information within the Project file.
- Consultant shall record in the field notes the utility ownership when describing the line data points. Consultant shall record all visible utility identifications in the field notes, such as numbers shown on power and/or telephone poles, vault tags, telephone pedestals (aka risers), cabinets, meters, fences or screened enclosures for gas regulators, and sanitary sewer pump stations. This data is needed for the County or Consultant to communicate where the facility may be in conflict with the Project.
- Consultant shall measure and record all utility facility structures (e.g. concrete pads, top slab of vaults, pump station housing, barrier screens or fenced enclosures). Consultant shall make a request to the utility owner to pull the cover whenever a manhole is found locked or bolted.
- Consultant shall tie improvements or vegetation within proposed easement boundaries or within close proximity of proposed easement boundaries when the proximity to the improvement has the potential to cause the improvement to suffer damage.

## 2.4.2 Detailed Basemap

Consultant shall:

- Take applicable topographic data collected in this subtask and create a detailed basemap file. A detailed basemap has all features drafted to County provided criteria. **2.4.3 Digital Terrain Model (DTM)**
- Create a 3 dimensional digital terrain surface using all relevant topographical data collected in this subtask.
- Collect the topographical data to create points and break lines in adequate quantity and in proper placement, to accurately represent the surface of the ground. Consultant shall collect confidence points in the field and generate a confidence point report that conforms with the 2015 ODOT Survey Policy and Procedure Manual. The topographical data and confidence points must meet Agency Criteria. Consultant shall generate 1-foot minor contours and 5 foot major contours throughout the DTM for a QC analysis of the surface.

### **Task 2.4 - Deliverables and Schedule**

*Consultant shall provide the following deliverables and submit them electronically (.PDF) to CPM within 30 days of NTP 1 copy of field notes:*

- *Copy of the Autodesk Civil3D CADD Files Detailed Base Map with Civil3D DTM*
- *All files for the network control points in (ASCII) format*
- *Files of listing kits*
- *Files of survey research*
- *Files of tax maps*
- *Control Point Worksheet with datum used and descriptions of control points found and set*

## **2.5 Existing ROW& Boundary Resolution**

The purpose of this task is to identify the location of the existing Centerline(s), ROW lines and property line(s) as necessary, to perpetuate the location of the monuments found, to document the control used for this Project area, and establish property lines for area calculations when new ROW is acquired. This task addresses the requirements of ORS 209.150 and 209.155 and other survey related statutes.

### **2.5.1 Resolve ROW and Property Boundaries**

Consultant shall:

- Resolve the location of the ROW within the present limits as described in this SOW.
- Resolve identified ROW centerlines alignments, ROW lines and property boundaries abutting the roadway and along the proposed route of construction, using accepted concepts and rationale methods of survey professional judgment. Consultant shall evaluate the available evidence for relevance, adequacy, and reliability; use professional judgment in determining the type and quantity of evidence available, and the influence given each factor; and determine a best-fit with the evidence and probable location of ROW alignments and property boundaries for the area as described. Consultant shall provide a detailed narrative of available evidence, desirable evidence not available, rationale for decisions made, and a summary of the conclusions in the establishment of the ROW centerline, ROW lines (including all jogs) and property boundary lines.

Control, Recovery, Retracement Record of Survey The Consultant will prepare a survey that shows existing monuments, surveys, and ROW and/or property lines. The scope work does not include preparation and filing of a Record of Survey (ROS). The intent is to protect the existing survey monuments with the design.

If during the project development, it is determined that a Record of Survey is required because of the potential of monuments being destroyed, the County may add the ROS to the scope of work for the consultant with an Amendment.

### **Task 2.5 - Deliverables and Schedule**

Consultant shall provide:

- *A resultant survey design as part of its overall Preliminary and PS&E Design.*

### **Task 3.0 Environmental Services**

The County will obtain Rights of Entry (ROE) for field reconnaissance work. The Consultant will provide list of properties requiring ROE's for research disciplines no less than five (5) weeks before such ROE's are required to perform work on private parcels.

The following tasks will be completed by the Consultant to identify wetland/Ordinary High Water (OHW) resources and hazardous materials, as well as to inform permitting needs for the project:

#### **3.1 Wetland/OHW Field Reconnaissance**

Consultant shall conduct wetland/waters field reconnaissance to preliminarily identify the jurisdictional boundaries of any wetlands and/or waters that occur within the Project Study Area (PSA). Prior to the field investigation, Consultant will conduct a review of publicly available information necessary to determine the presence of wetlands onsite. This information includes National Wetland Inventory (NWI) data, NRCS county soil survey data, and aerial imagery. The field investigation will be performed to identify the extent of jurisdictional wetlands and waterways in the study area. Best professional judgement will be used to determine whether wetlands and/or waters are potentially jurisdictional at either the state level, or both the state and federal levels.

The boundaries of wetlands shall be estimated based on the presence of wetland hydrology, hydric soils, and hydrophytic vegetation, in accordance with the "Routine On-site" determination methodologies of the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0). The boundaries of waters will be delineated based on ordinary high water mark (OHWM) elevation in accordance with U.S. Army Corps of Engineers (Corps) and Oregon Department of State Lands (DSL) guidelines. All wetland and waters boundaries shall be flagged with pin flags and/or plastic flagging and labeled alpha-numerically in the field so they are clearly identifiable to the field surveyors. A sketch map of approximate wetland and waters boundary boundaries shall be provided to the County so that their survey crew can locate and survey each point. Representative photographs will be taken throughout the study area to support findings. After the County surveys the wetland and waters points and provides a survey point file to the consultant design team, the Consultant will review the survey and will create a CAD file of the wetland and waters boundaries for use by the design team.

Following completion of the fieldwork, Consultant shall prepare a Wetland Memorandum describing the methodology and results of the fieldwork. The memorandum shall include data collected on the soils, hydrology, and vegetation within the PSA. Graphics shall depict the topography, soil mapping, National and/or Local Wetland Inventory (N/LWI) mapping, aerial and ground level photographs, and the locations of the sample plots and surveyed wetland boundaries. If there are wetlands/OHW within the potential impact area, the Consultant will coordinate with the County to determine if all impacts to wetlands/OHW can be avoided, or if not, then the impacts to USACE-regulated wetlands and OHW can be avoided. Consultant will advise the County of permitting implications during Preliminary Design as needed.

#### **Task 3.1 Assumptions**

- *The County will provide site access prior to the field investigation;*
- *Study area boundaries will be clearly identified prior to the County's site visit to conduct a survey; and*
- *The County will survey wetland and waters boundaries and will provide a CAD file of the survey points to Consultant.*
- *Informal environmental coordination with County.*

### **Task 3.1 Deliverables and Schedule**

Consultant shall provide:

- *Sketch map of approximate wetland and waters boundaries for surveyor's use.*

### **3.2 Wetland Determination Memorandum**

If wetlands are not located within the potential impact area, a wetland determination memorandum will be prepared by Consultant that describes the results of the field investigation. A map(s) will be prepared that shows the study area, photo locations, and sample plot locations. The memorandum will include site descriptions, a photo log, and sample plot data forms.

### **Task 3.2 - Assumptions**

- *County shall review the draft Wetland Determination Memorandum and shall provide comments to Consultant within two weeks of receipt of the draft. Consultant shall make appropriate modifications to the draft Wetland Determination Memorandum in response to the comments and shall prepare the final for submittal.*

### **Task 3.2 - Deliverables and Schedule**

Consultant shall provide:

- *DRAFT Wetland Determination Memorandum to County for review.*
- *FINAL Wetland Determination Memorandum within two (2) weeks of receipt of comments.*

## **Task 4.0 Stormwater / Hydraulics Related Services 4.1 Drainage & Water Quality/Quantity Studies**

### **4.1.1 Existing Stormwater System Review and Downstream Analysis**

Consultant shall:

- Review drainage basins and available capacity in the downstream systems.
- Review capacity of existing conveyance facilities based on survey data provided by the County within project limits including those that are located within adjacent streets ROW.

### **4.1.2 Stormwater Design Documentation**

#### *Preliminary Stormwater Memorandum:*

Consultant shall prepare a preliminary stormwater concept and memorandum that shall be submitted prior to 30% Preliminary Plans. The purpose of this memorandum is to develop the overall recommendations of the basic storm water conveyance system layout, pipe/culvert outfall locations, treatment, and storage concepts. These recommendations do not contain full facility designs. It is a tool to assist in the selection of the types and locations of the facilities to be designed. Consultant shall prepare the Preliminary Stormwater Memorandum following the outline below:

- **Introduction and Title** – This section shall list Project name, road name, beginning and ending mile points, and date of the report. The introduction will include the names of the engineering staff who prepared the recommendations, the purpose of the report, a brief description of the Project, and a summary of treatment/storage concepts and recommendations on their use.
- **Existing and Proposed Conditions Narrative** – The introduction will be followed by a narrative that describes the proposed changes to the existing conditions. The pollutant removal and storage targets will also be included in the narrative.
- **Proposed Stormwater Management Alternatives** – This section will include a brief generic discussion of proposed alternatives considered. The topics addressed will include location, removal efficiency, storage capacity, constructability, maintenance, and cost. A comparison of LIDA facilities for water quality and detention and other similar BMP alternatives will be evaluated and listed.

- **Recommendations** – This section shall discuss preliminary recommendations about the proposed alternatives. Aspects that shall be addressed include dependability, ease of construction, and ease of maintenance, cost, and appearance.

**Task 4.0 - Deliverables and Schedule**

*Consultant shall provide:*

- *Concept Stormwater Drainage Memorandum to County for review due prior to the 30% Preliminary Design submittal.*
- *Draft Stormwater Design Memorandum (PDF) due with the 30% Preliminary Design submittal.*
- *Final Stormwater Design Memorandum (PDF) due with the 60% Preliminary Design submittal.*

**Task 5.0 Utility Coordination 5.1 Utility Coordination**

Consultant shall initiate coordination with utilities and incorporate utility provided relocation plans into the design documents. The locations and elevations of existing utilities and options for resolving conflicts shall be investigated. This work shall include working with the County and utility companies to “pothole” crossings and other areas to identify and eliminate conflicts. It is expected that potholing shall be provided by the utility companies. Once “potholing” data is obtained and mapped, the Consultant shall incorporate the data into any plan changes.

Consultant shall:

- Prepare a Utility Conflict Spreadsheet and send utility conflict letters using County boilerplate utility notices to the affected utility companies describing the conflicts that exist, and the required adjustment to eliminate the conflict. A spreadsheet of centerline reference points and elevations shall be provided to utility companies for use in excavating existing utilities (potholing) at points of potential conflicts. Consultant shall also provide the conflict list to an independent potholing service who shall provide quotes to the utilities and coordinate with the Project team to aid in gathering pothole data. The schedule for making the necessary adjustment ahead of the beginning of road construction shall be identified.
- Review pothole data provided by the utilities and make recommendations to the project design to minimize utility relocation.
- Prepare a Utility Relocation Letter using County boilerplate utility notice of conflict for each utility notifying them of unavoidable conflicts with a mandatory relocation date.
- Perform ongoing coordination with utilities to resolve utility conflicts finalize utility relocation requirements as appropriate.
- Provide a final notice using County boilerplate utility final notice to utilities of contract dates and project status.

**Task 5.0 - Deliverables and Schedule**

*Consultant shall provide:*

- *Utility Conflict Spreadsheet(s) and Letter(s)*
- *The final utility relocation plan(s) submitted to the County Project Manager (CPM) within 10 days after acceptance.*
- *Final Notice Letter(s) submitted to each utility and CPM 20 business days after submittal of Advance Plans to County.*

**Task 6.0 Traffic Engineering and Management 6.1 Signing & Pavement Marking Plans**

Consultant shall:

- Prepare combined plans, specifications, and construction cost estimates for the permanent signing and pavement markings associated with the proposed improvements. The design must be completed in accordance with applicable MUTCD and County standards. DKS will provide design information to HHPR, and the signing and striping will be included on the roadway plan sheets.



### **Task 6.1 - Deliverables and Schedule**

Consultant shall provide:

- *Signing & Striping plans incorporated into, 90%, and 100% plans.*

### **Task 7.0 Preliminary Design (30%) 7.1 Design Criteria**

Consultant shall prepare draft and final design criteria. Design criteria shall be consistent with AASHTO's A Policy on Geometric Design of Highways and Streets; Clackamas County Transportation System Plan (TSP) Rural Arterial Cross Section and Clackamas County Roadway Standards. County will provide project-specific criteria for project overlay and new section widening to Consultant. Consultant shall present the design criteria in a table or matrix format listing all conditions, assumptions and minimum standards for the roadway design elements of the Project. This includes the following:

- Determine cross slope,
- Determine maximum grade, vertical curves
- Determine turn lane elements:
- Taper rate
- Determine cross section elements:
- Number and width of travel lanes
- Shoulders
- Bikeways
- Determine need for roadside barriers

### **7.2 Horizontal and Vertical Alignments (30% submittal)**

This task shall develop alternatives to be evaluated based on the design criteria to meet the overall project needs, as well as to reach agreement on the preferred alternative.

Consultant shall:

- Provide the roadway elements associated with up to two (2) cross section alternatives developed for the project corridor. The activity includes a cross section alternative meeting the design criteria and one alternative requiring a design exception to avoid significant trees, properties, or utilities.
- Provide conceptual design strip maps for (2) alternative layouts of the intersection, paved shoulders and retaining wall locations.
- Provide Civil 3D Cross Sections of alternatives for review by the County.
- Collaborate with County staff to assist County in determining the preferred alternative.
- Provide 30% strip map showing the preferred alternative.

### **7.3 Stormwater Conveyance, Water Quality and Detention Concept Alignment and Grade (30% submittal)**

Based on the storm drainage report, the Consultant shall develop conceptual drainage conveyance, water quality and detention layout and profile grades for the preferred alternative. This shall validate the stormwater disposal locations and depth of the storm system. This shall also provide locations of potential utility conflicts and potholing needs.

### **7.4 Construction Estimate**

Consultant shall provide quantities and 30% construction cost estimate with each alternative.

### **7.5 Design Memorandum**

Consultant shall provide a brief 30% design memorandum summarizing:

- Alternatives considered and the recommended alternative.
- Anticipated environmental documentation and permits that will be required for the project including information regarding permit application submittal requirements, typical timelines, and potential mitigation requirements.

### **Task 7.0 - Deliverables and Schedule**

Consultant shall provide:

- Draft design criteria electronically (one electronic copy in PDF form)
- Final design criteria electronically (one electronic copy in PDF form)
- Conceptual Design Strip Maps for (2) alternatives (one electronic copy in PDF form)
- 30% Strip Map of Preferred Alternative (one electronic copy in PDF form)
- 30% Cost Estimate
- 30% Design Memorandum

### **Task 8.0 Public Involvement/Outreach Assistance**

The Consultant will provide support to the County's community relations specialist with preparation of documents to be distributed or made available to the general public.

Consultant shall:

- Provide a graphically formatted aerial map, showing the project footprint for inclusion on the County's website and for County use in public outreach.

### **Task 8.0 - Assumptions**

- County staff will be responsible for final production of mailers and or information boards, website informational narratives, and for making presentations to the public and other stakeholder organizations.
- Consultant staff will not attend community open house events.

### **Task 8.0 - Deliverables and Schedule**

Consultant shall provide:

- One draft and final aerial map graphic in PDF form

### **Task 9.0 Final Design (90% and 100% Bid Ready) -Plans, Specifications, and Estimate, (PS&E)**

The Consultant will advance the recommended alternative from the Preliminary Design (30% design) stage to the 100% complete stage.

Consultant shall:

- Complete engineering drawings for submittal to the County at 90%, and 100% milestones and perform quality assurance and in-house independent design checks and plan review of all drawings and related quantities. All plans will be drafted with the latest version of AutoCAD software and the final CAD drawings provided through an FTP site or on a CD.
- Provide relevant plan drawings that include at a minimum title, typical sections, standard details, erosion control plans, roadway plans, and other required drawings for submittal to County for review.
- Calculate quantities and develop an engineer's construction cost estimate and construction schedule for submittal at each plan development milestone (90%, and 100%).
- Prepare relevant sections of specifications based on the 2021 Oregon Standard Specifications for Construction. Produce special provisions for the project using standard ODOT boilerplate special provisions and County boilerplate special provisions to the specifications in Part 00100 – General Requirements.
- Revise and submit final Special Provisions based on comments received during County reviews.
- Provide responses to comment/response logs for 90% and 100% milestones on PS&E documents.
- Make corrections as required by County and submit final plans to County (both documents and electronic copies).
- Consultants shall prepare plan sheets according to the following table:

<b>Table 9</b> Name of Sheet	Estimated # of Sheets	60% PS&E Submittal	Advanced Submittal	Final Submittal
Title sheet (w/Std Dwgs listed)	1	X	X	X
Legend & abbreviations	1	X	X	X
General notes	1	X	X	X
Typical sections	1	X	X	X
Standard details	1	X	X	X
Erosion control cover & notes	1	X	X	X
Erosion control plans (1"=40')	4	X	X	X
Layout of sheets	1	X	X	X
Roadway plan and profiles (1"=30')	8	X	X	X
Sign and striping plans (1"=40')	1	X	X	X
Sign and striping details	1	X	X	X
Sign and post data table	1	X	X	X

**Exhibit B**  
**FEE SCHEDULE**

Harper Houf Peterson Righellis Inc. - Estimated Fee Roadway Design Services for 362nd Pavement and Safety Project - Clackamas County September 14, 2021	Harper Houf Peterson Righellis Inc.														DKS Associates								TOTAL BY TASK		
	Principal/Project Manager	Civil Engineer	Senior Civil Designer	QC Engineer/Construction Manager	Civil Designer	Cad Technician	Environmental Scientist	Graphics	Landscape Architect	Project Surveyor	Survey Technician	Survey Crew Chief	Instrument Person	Clerical	Expenses	Principal (Grade 40)	QC Engineer (Grade 35)	Project Manager (Grade 30)	Engineering Designer (Grade 21)	Engineer (Grade 15)	Engineering Associate (Grade 15)	CAD Technician (Grade 11)		Admin (Tech T)	Expenses
<b>1. PROJECT MANAGEMENT AND COORDINATION</b>																									
1.1 Administration & Record Keeping	8																								\$ 1,720.00
1.2 Coordination	24																								\$ 5,560.00
1.3 Project Meetings	6		6														2	2							\$ 3,050.00
<b>2. SURVEY, FIELD INVESTIGATIONS &amp; MAPPING</b>																									
2.1 Research									8	12															\$ 2,920.00
2.2 Horizontal & Vertical Control Network	1								4	8	8	8													\$ 3,735.00
2.3 Monument Recovery									8	16	32	32													\$ 10,640.00
2.4 Topographic Data, Detailed Base Map, & DTM	2								12	120	80	80													\$ 36,070.00
2.5 Existing ROW & Boundary Resolution	2								16	40															\$ 8,350.00
<b>3. ENVIRONMENTAL SERVICES</b>																									
3.1 Wetland/OHW Field Investigation	2		4			24																			\$ 4,330.00
3.2 Wetland Determination Memorandum	2					16	8							8											\$ 4,550.00
<b>4. STORMWATER/HYDRALICS RELATED SERVICES</b>																									
4.1 Drainage & Water Quality/Quantity Studies	8	60	16											8											\$ 15,100.00
<b>5. UTILITY COORDINATION</b>																									
5.1 Utility Coordination	8	8	8																						\$ 4,360.00
<b>6. TRAFFIC ENGINEERING AND MANAGEMENT</b>																									
6.1 Signing & Pavement Marking Plans			16			12										1	8		24						\$ 9,650.00
<b>7. PRELIMINARY DESIGN (30%)</b>																									
7.1 Design Criteria	2		8																						\$ 2,550.00
7.2 Horizontal & Vertical Alignments (30% Submittal)	8		60	8	40												4								\$ 18,780.00
7.3 Stormwater Conveyance, Water Quality and Detention Concept Alignment and Grade (30%)	8	24	40	2																					\$ 12,670.00
7.4 Construction Estimate	4		16														4								\$ 4,300.00
7.5 Design Memorandum	15		12				16																		\$ 7,445.00
<b>8. PUBLIC INVOLVEMENT/OUTREACH ASSISTANCE</b>	0.5						4																		\$ 667.50
<b>9. FINAL DESIGN (90% AND 100% BID READY), PS&amp;E</b>	24	72	200	16	200	40		20							1		4								\$ 89,910.00
<b>10. BID &amp; AWARD ASSISTANCE</b>																									
10.1 Questions During Bidding	1		4																						\$ -
	125.5	164	390	26	240	52	40	28	20	48	196	120	120	16	\$ -	2	0	24	2	24	0	0	0	\$ -	\$ -
	\$215	\$165	\$165	\$195	\$140	\$120	\$135	\$140	\$145	\$170	\$130	\$130	\$95	\$105	\$ -	\$250	\$225	\$200	\$185	\$155	\$125	\$105	\$130	\$ -	\$ -

\$ 237,842.50

\$ 9,390.00 \$ 247,232.50



Board of Commissioners

Clackamas County

Members of the Board:

Approval of a Contract with Journal Graphics  
for Printing and Mailing Clackamas County Magazine

<b>Purpose/Outcomes</b>	Provide a bi-annual magazine to all residents of Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	Maximum contract value is \$639,056. Year one value of \$149,536 for two 40 page magazines Year two value of \$240,014 for three 40 page magazines Year three value of \$249,505 for three 40 page magazines  Year two and three also includes a 3.5% increase for postage and printing costs.
<b>Funding Source</b>	Funds consist of Franchise Revenue, Department Reimbursements and County General Fund.
<b>Duration</b>	Initial term of the contract is effective when signed and terminates on June 30, 2024
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	By surfacing the DNA of the County's unique identity and communicating effectively, more Oregonians will view Clackamas County in a positive way.
<b>Counsel Review</b>	Reviewed by Counsel 10/12/21, AN
<b>Procurement Review</b>	Was this item reviewed by Procurement? Yes
<b>Contact Person</b>	Tonia Holowetzki, Deputy Director 503-250-1381
<b>Agreement No.</b>	County 4648

**BACKGROUND:**

Public and Government Affairs (PGA) of Clackamas County are the communications team that provides strategic messaging, community involvement and informative content to the public, the Board of Commissioners and all the departments that serve Clackamas County.

The goal of PGA is to help connect county residents with the services, programs and opportunities that Clackamas County offers. In an effort to help the residents stay informed, they are sending out a magazine on a semi-annual basis to all county residents, estimated volume of 180,000 magazines.

**PROCUREMENT PROCESS:**

This project was advertised in accordance with ORS and LCRB Rules on August 10, 2021, Through Invitation to Bid 2021-69. Proposals were publicly opened on August 25, 2021. The County received two (2) Bids. After review of the Bids, contracting with Journal Graphics for the printing and mailing of the Clackamas County magazine was determined to be in the best interest of the county based upon the criteria outlined in ITB 2021-69.

**RECOMMENDATION:**

Staff recommends approval of this Contract.

Respectfully submitted,



Sue Hildick, Director  
Public and Government Affairs



**CLACKAMAS COUNTY  
GOODS AND SERVICES CONTRACT  
Contract #4648**

This Goods and Services Contract (this “Contract”) is entered into between Journal Graphics, Inc. (“Contractor”), and Clackamas County, a political subdivisions of the State of Oregon (“County”) on behalf of Public and Government Affairs for the purposes of printing and mailing Clackamas County magazine.

**I. TERM**

This Contract shall become effective upon signature of both parties and shall remain in effect until **June 30, 2024**. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

**II. SCOPE OF WORK**

This Contract covers the Scope of Work as described in Invitation to Bid 2021-69, Printing and Bulk Mailing of Magazines, issued August 10, 2021, attached and hereby incorporated by reference as Exhibit “A.” This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit “A”, and the Contractor’s Bid attached and hereby incorporated by reference as Exhibit “B.” Work shall be performed in accordance with a schedule approved by the County. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The County’s Representative for this contract is: Tonia Holowetzki.

**III. COMPENSATION**

**1. PAYMENT.** The County agrees to compensate the Contractor on a time and material basis as detailed in this Contract. The following table represent the maximum totals available for annual compensation under this Contract:

		Issues	Printing	Postage	Hosting	3.5% increase	Sub Total	Total editions
Sept - June 2022	40 pages	2	\$39,523	\$34,965	\$280.00	0	\$74,768	\$149,536
July - June 2023	40 pages	3	\$39,523	\$34,965	\$280.00	\$5,234	\$80,005	\$240,014
July - June 2024	40 pages	3	\$39,523	\$34,965	\$280.00	\$8,400	\$83,168	\$249,505



The maximum total Contract compensation shall not exceed **Six Hundred Thirty-Nine Thousand Fifty-Six Dollars (\$639,056)**

2. **TRAVEL EXPENSE REIMBURSEMENT.** Authorized:  Yes  No  
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
3. **INVOICES.** Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed monthly (unless a different payment period is outlined in Exhibit A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute (“ORS”) 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices shall be submitted to the County Representative at: [canderson3@clackamas.us](mailto:canderson3@clackamas.us)

**4. CONTRACTOR AND COUNTY CONTACTS.**

Contractor	County
Administrator: Chris Rummel Phone: 503-221-3353 Email: <a href="mailto:chris.rummel@journalgraphics.com">chris.rummel@journalgraphics.com</a>	Administrator: Tonia Holowetzki Phone: 503-742-5973 Email: <a href="mailto:AHolowetzki@co.clackamas.or.us">AHolowetzki@co.clackamas.or.us</a>

**IV. CONTRACT PROVISIONS**

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County’s reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way

define, limit, or describe the scope or intent of any provisions of this Contract.

- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
- 5. EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- 6. GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 437, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Contractor shall immediately provide Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.

**9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to the County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656.

**10. INSURANCE.** Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. Contractor shall provide insurance as indicated below:

**A. COMMERCIAL GENERAL LIABILITY**

The Contractor agrees to furnish the County evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The County, at its option, may require a complete copy of the above policy.

**B. AUTOMOBILE LIABILITY**

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

**C.** Contractor shall provide County a certificate of insurance naming the Clackamas County and its officers, elected officials, agents, and employees as an additional insured. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include Clackamas County and its officers, elected officials, agents, and employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

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

**E.** If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36)

months or the maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided it's retroactive date is on or before the effective date of this Contract.

**F.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the Contractor to the County. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

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

**11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

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

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

**13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County.

Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

**14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- a. Performance Warranty. Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. Service Warranty. Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional standards. Contractor's liability and County's remedy under this services warranty are limited to Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

**15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections of Section IV: 1, 6, 8, 11, 13, 14, 15, 16, 18, 21, 22, 23, 27, 31 and all other terms and conditions which by their context are intended to survive termination of this Contract.

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

**17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 8, 13, 15, and 26 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

**18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

**19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied

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

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

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

**21. REMEDIES.** (A) In the event of termination pursuant to Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor

was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research or objects or other tangible things needed to complete the work.

22. **NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
23. **NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
24. **TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence under this Contract.
25. **FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
26. **FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
27. **WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
28. **COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract: (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished. (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. (C) The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. The Contractor shall comply with the

prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default. (D) The Contractor shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

- 29. DELIVERY.** All deliveries shall be F.O.B. destination with all transportation and handing charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.
- 30. INSPECTIONS.** Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.
- 31. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

SIGNATURE PAGE FOLLOWS





**EXHIBIT A**  
**ITB 2021-69**

**EXHIBIT B  
CONTRACTOR'S BID**