

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval to Enter into a Grant Agreement to Coordinate the Youth Homelessness Demonstration Program, Housing and Urban Development (HUD) Grant

Purpose/Outcomes	Develop a strategic plan to prevent and end homelessness among unaccompanied youth through age 24. Then fund, evaluate, and adapt programs as necessary to meet the goal of preventing and ending youth homelessness.
Dollar Amount	Grant award of \$53,298 for the Planning Grant.
Funding Source	HUD is the funding source for this grant.
Duration	Once executed, we will spend this money for 12 months or until it runs out.
Previous Board Action	BCC approved the application for the Youth Homelessness Demonstration Program on 5/2/2019.
Strategic Plan Alignment	H3S goal: "Ensuring access to safe, stable housing" Housing and Community Development goal: "85% of houseless individuals served by Continuum of Care (CoC) programs move to or maintain stable housing"
Counsel Review	Andrew Naylor of County Counsel reviewed and approved the YHDP Grant Agreement on December 10, 2019
Contact Person	Abby Ahern, H3S-Community Development, Program Planner– 503-650-5663

BACKGROUND:

The Community Development Division of the Health, Housing & Human Services Department requests the approval to enter into a grant agreement to coordinate the Youth Homelessness Demonstration Program grant. Clackamas County was awarded a HUD grant to prevent and end homelessness among unaccompanied youth through age 24. Clackamas County was awarded \$1,776,632 over 2 years to pilot projects that will address youth homelessness. This grant agreement is the first project that comes out of this larger grant. The money will be used to pay staff time to develop a strategic plan to prevent and end youth homelessness, coordinate the RFP process for non-profits to apply to use this money to implement projects, evaluate success of projects, and adapt projects as necessary to meet the goals of preventing and ending youth homelessness in Clackamas County. This population has been difficult to engage in services because of a learned distrust of adults and adult systems. After the first 2 years of programming, Clackamas County would be eligible to re-apply annually for approximately \$880,000 to continue projects. This particular grant agreement will fund the ongoing coordination/planning efforts, necessary to ensure effective programming.

Healthy Families. Strong Communities.

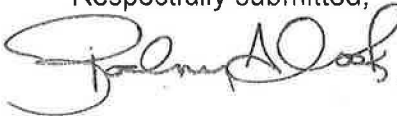
2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us

RECOMMENDATION:

Staff recommends the approval to enter into a grant agreement to Coordinate the Youth Homelessness Demonstration Project and further recommend that Richard Swift, H3S Director be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

 , H3S deputy / For

Richard Swift, Director
Health, Housing & Human Services

Tax ID No.: 93-6002286
Community: OR-507 Clackamas County
Grant Number: OR0273Y0E071800
Effective Date: 11/26/2019
DUNS No.: 096992656

**YOUTH HOMELESSNESS DEMONSTRATION GRANT AGREEMENT
(CFDA#14.276)**

This Grant Agreement (this Agreement) is made by and between the United States Department of Housing and Urban Development (HUD) and Clackamas Department Health, Housing & Human Services (the Recipient).

Under the authority of the Consolidated Appropriations Act, 2018 (Pub. L. 115-141) (the Act), and pursuant to the General Section to HUD's Fiscal Year 2018 Notice[s] of Funding Availability for Discretionary Programs, and the Youth Homelessness Demonstration Program Notice of Funding Availability, published March 14, 2019 (the NOFA), HUD selected 23 communities to participate in the Youth Homelessness Demonstration. Recipient was designated by the Community listed above the title of this Agreement to apply for funding for the project identified on the attached Scope of Work, which is to be carried out within the geographic area of the Community.

The terms "Grant" or "Grant Funds" mean the funds that are provided under this Agreement. The term "Application" means the application submissions on the basis of which the Grant was approved by HUD, including the certifications, assurances, and any information or documentation required to meet any Grant award condition. All other terms shall have the meaning given in the NOFA. If a term is not defined in the NOFA, then the term shall have the meaning given in the Continuum of Care Program regulation, 24 CFR part 578 (the Regulation).

The Application is incorporated herein as part of this Agreement, except as modified on the attached Scope of Work exhibit. In the event of any conflict between the Application and any provision contained in this Agreement, this Agreement shall control.

The use of Grant Funds under this Agreement is subject to the requirements imposed by the NOFA.

Effective Date and Period of Performance. The effective date of the Agreement shall be the date of execution by HUD and it is the date use of funds under this Agreement may begin. Each project will have a performance period that will be listed on the Scope(s) of Work to this Agreement. For renewal projects, the period of performance shall begin at the end of the Recipient's final operating year for the project being renewed and eligible costs incurred for a

project between the end of Recipient's final operating year under the grant being renewed and the execution of this Agreement may be paid with funds from the first operating year of this Agreement. For each new project funded under this Agreement, Recipient and HUD will set an operating start date in eLOCCS, which will be used to track expenditures, to establish the project performance period and to determine when a project is eligible for renewal. Recipient hereby authorizes HUD to insert the project performance period for new projects into the Scope of Work without Recipient signature, after the operating start date is established in eLOCCS.

Environmental Review. No funds may be drawn down by Recipient until HUD has approved site control pursuant to the Environmental Requirements of the NOFA.

Applicable Regulations. Although the Grant is not a Continuum of Care program Grant, the NOFA made Continuum of Care program requirements applicable to the use of Grant funds. The Grant is subject to the following provisions of the Regulation, except where they conflict with the NOFA requirements, and with the proviso that Grant funds may only be used to serve homeless youth, age twenty-four (24) and younger: 24 CFR 578.3, 578.15, 578.23(a), 578.25, 578.27, 578.29, 578.37, 578.43, 578.45, 578.47, 578.49, 578.51, 578.53, 578.55, 578.57, 578.59, 578.61, 578.63, 578.73(c), 578.75, 578.77, 578.79, 578.81, 578.83, 578.85, 578.87, 578.89, 578.89, 578.91, 578.93, 578.95, 578.97, 578.99, 578.103(a)(3) - (18) and (b) - (e), 578.107 and 578.109. The requirements of 2 CFR 200.306, with the exception of 200.306(b)(5) apply. Grants for planning costs are subject to 24 CFR 578.7(c) and (d) and 578.39(b) and (c), but Grant funds may only be used for costs of planning related to preventing and ending youth homelessness in the Community.

Matching Requirements. The Recipient or Subrecipient must match all Grant funds, except for leasing funds, with no less than 25 percent of funds or in-kind contributions from other sources. The 25 percent match must be provided on a Grant-by-Grant basis. Match must be used for the costs of activities that are eligible under subpart D of 24 CFR part 578. If program income will be used as a source of match it must have been shown in the Application.

HMIS. Unless the Grant is for the costs of coordinated entry or planning costs, Recipient must participate in the Community's HMIS system and contribute data to it. Victim service providers must use a comparable database that complies with HUD's HMIS requirements.

Indirect cost rate. If Grant funds will be used for payment of indirect costs, the Recipient is authorized to insert the Recipient's and Subrecipients' federally recognized indirect cost rates on the attached Federally Recognized Indirect Cost Rates Schedule, which Schedule shall be incorporated herein and made a part of the Agreement. No indirect costs may be charged to the Grant by the Recipient if their federally recognized cost rate is not listed on the Schedule. If no federally recognized indirect cost rate is listed on the Schedule for a project funded under this Agreement, no indirect costs may be charged to the project by the Subrecipient carrying out that project

Consistency with the Community Plan. Projects must be consistent with the Community's HUD-approved Coordinated Community Plan (the Plan) to prevent and end youth homelessness. If the Community has developed and obtained HUD approval of the Plan in response to the NOFA,

Recipient represents that the project funded by this Grant is consistent with the Plan. If the Community has not, as of execution of this Agreement obtained HUD approval of the Plan and if HUD determines the project funded by this Agreement is not consistent with the submitted Plan, HUD may withhold approval of the Plan or refuse to award funds to any additional projects until the Plan and this project are consistent, to be determined by HUD in its sole discretion. Operating a project in a manner that is inconsistent with the HUD-approved Plan constitutes a material breach of this Agreement, for which HUD may declare Recipient in default of the Agreement and seek remedies available pursuant to 24 CFR 578.107.

Grant and project changes. Recipient may not make any significant changes to the project without prior HUD approval, evidenced by a Grant amendment signed by HUD and the Recipient. Significant changes include a change of Recipient; a shift in a single year of more than 10 percent of the total amount awarded under the Grant for one approved eligible activity category to another activity; a permanent change in the subpopulation served by the project funded under the Grant; and a permanent proposed reduction in the total number of units funded under the Agreement. Approval of substitution of the Recipient is contingent on the new Recipient meeting the capacity criteria in the NOFA. Approval of shifting funds between activities and changing subpopulations is contingent on the change being necessary to better serve eligible homeless youth within the Community. Any changes not requiring a Grant amendment must be fully documented in the Recipient's or Subrecipients' records.

Notice. HUD notifications to the Recipient shall be to the address of the Recipient as stated in the Application, unless the Recipient changes the address and key contacts in e-snaps. Recipient notifications to HUD shall be to the HUD Office executing the Agreement. No right, benefit, or advantage of the Recipient hereunder may be assigned without prior written approval of HUD.

FAPIS. The following provisions apply to Grants that may include more than \$500,000 over the Period of Performance:

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the Period of Performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:
 - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - (4) Any other criminal, civil, or administrative proceeding if:
 - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

The Agreement constitutes the entire agreement between the parties hereto, and may be amended only in writing executed by HUD and the Recipient.

By signing below, Recipients that are states or units of local government certify that they are following a current HUD-approved CHAS (Consolidated Plan).

This agreement is hereby executed on behalf of the parties as follows:

**UNITED STATES OF AMERICA,
Secretary of Housing and Urban Development**

BY: 
(Signature)

Jemine A. Bryon, Deputy Assistant Secretary for Special Needs
(Typed Name and Title)

11/26/2019
(Date)

RECIPIENT

(Name of Organization)

BY: _____
(Signature of Authorized Official)

(Typed Name and Title of Authorized Official)

(Date)

January 9th, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Local Subrecipient Grant Agreement with
Oregon Child Development Coalition to provide Preschool Promise Program Services

Purpose/Outcome	Oregon Child Development Coalition (OCDC) will provide a minimum of 900 direct- service classroom hours to, at least, 10 children ages 3-5 and their families to improve educational outcomes for preschool aged children using strength-approaches and asset-based mindsets.
Dollar Amount and Fiscal Impact	Agreement has a maximum value of \$122,725. No County General Fund involved and no match required.
Funding Source	State of Oregon, Dept of Education through its Early Learning Division
Duration	October 1, 2019 to June 30, 2020
Previous Board Action/Review	N/A
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Counsel Review	County Counsel reviewed and approved this document on October 14, 2019.
Contact Person	Korene Mather 503-650-3339
Contract No.	CFCC 9520

BACKGROUND:

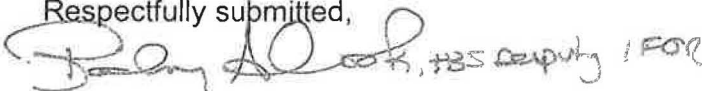
The Children, Family & Community Connections Division of the Health, Housing and Human Services Department requests approval of a Local Subrecipient Agreement with Oregon Child Development Coalition to provide Preschool Promise services. Preschool Promise, a model for high-quality preschool made available to children and families living below 200% of the Federal Poverty Level that lack access to quality preschool because of poverty, race/ethnic, language, and/or other barriers. Preschool Promise promotes healthy child development and early learning to underserved families to improve educational outcomes for their preschool-aged children.

This Local Subrecipient Agreement is effective upon signature by all parties for services starting on October 1, 2019 and terminating on June 30, 2020. This Agreement has a maximum value of \$122,725.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services

Healthy Families. Strong Communities.

CLACKAMAS COUNTY, OREGON LOCAL SUBRECIPIENT GRANT AGREEMENT CFCC- 9520	
Program Name: <i>Preschool Promise</i> Program/Project Number: 9520	
This Agreement is between <u>Clackamas County, Oregon</u> , acting by and through its Health, Housing & Human Services Children, Family & Community Connections Division (COUNTY) and <u>Oregon Child Development Coalition</u> , (SUBRECIPIENT), an Oregon Non-profit Organization.	
COUNTY Data	
Grant Accountant: <i>Michael Morasko</i>	Program Manager: <i>Annette Dieker</i>
Clackamas County Finance 2051 Kaen Road Oregon City, OR 97045 (503) 650-5435 mmorasko@clackamas.us	Children, Family & Community Connections 150 Beaver Creek Rd. Oregon City, OR 97045 (503) 650-5680 adieker@clackamas.us
SUBRECIPIENT Data	
Finance/Fiscal Representative: <i>Angela Gomez</i>	Program Representative: <i>Donna LeDoux</i>
Oregon Child Development Coalition 9140 SE Pioneer Court, Suite E Wilsonville, OR 97070 971-224-1044 Angela-gomez@ocdc.net	Oregon City Development Coalition 9140 SE Pioneer Court, Suite E Wilsonville, OR 97070 Donna.Ledoux@ocdc.net
FEIN: 93-0591240	

RECITALS

1. SUBRECIPIENT will implement Preschool Promise, a model for publicly-funded, high-quality preschool made available to children and families living below 200% of the Federal Poverty Level and that lack access to quality preschool because of poverty, race/ethnic, language, and/or other barriers. SUBRECIPIENT will provide a minimum of 900 hours of direct service classroom hours to a minimum of 10 children ages 3-5 and their families, using strength-based approaches and asset-based mindsets to facilitate and support statewide efforts to institutionalize equity as outlined in Exhibit A-1: Statement of Program Objectives, Exhibit A-2 Monthly Program Report, Exhibit A-3 Quarterly Program Report, and Exhibit A-4 Client Feedback Survey and Report, attached hereto and incorporated herein..
2. This Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse SUBRECIPIENT for expenses approved in writing by County relating to the project incurred no earlier than **October 1, 2019** and not later than **June 30, 2020**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A-1: Statement of Program Objectives. SUBRECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the State of Oregon, Early Learning Division Grant Agreement that is the source of the grant funding.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the State of Oregon acting by and through its Department of Education, Early Learning Division issued to the COUNTY. The maximum, not to exceed, grant amount that the COUNTY will pay on this Agreement is **\$122,725**.
5. **Disbursements.** The County agrees to pay SUBRECIPIENT, from available and authorized funds, for satisfactorily performing the services outlined in Exhibit A-1: Statement of Program Objectives. SUBRECIPIENT use of funds may not exceed the amount specified in Exhibit B: Program Budget. SUBRECIPIENT may not transfer funds between budget lines without prior written approval of the COUNTY. Payments shall be made on a cost reimbursement basis and disbursement will be made monthly in accordance with the requirements outlined in: Exhibit C: Financial Report and Request for Reimbursement. Failure to comply with the terms of this Agreement may result in withholding of payment.
6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. .
8. **Funds Available and Authorized.** The COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority

sufficient to allow the COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.

9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.
10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned". All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
 - c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of the original grant application or agreement.
 - d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with the State of Oregon acting by and through its Department of Education, Early Learning Division.
 - e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
 - f) **Match.** Matching funds are not required for this Agreement.
 - g) **Payment.** Routine requests for reimbursement should be submitted monthly by the 15th of the following month using the form and instructions in Exhibit C: Request for Reimbursement. SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement.
 - h) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibits A-2 Monthly Reporting & A-3 Quarterly Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit C: Financial Report and Request for Reimbursement. All reports must be signed and dated by an authorized official of SUBRECIPIENT.
 - i) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.

- j) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. The COUNTY, and its duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
- k) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2020), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
- l) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

11. Compliance with Applicable Laws

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

12. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT 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 SUBRECIPIENT, its subcontractors, agents, or employees. The SUBRECIPIENT agrees to indemnify, hold harmless and defend Clackamas 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 SUBRECIPIENT or the SUBRECIPIENT's employees, subcontractors, or agents.

However, neither SUBRECIPIENT nor any attorney engaged by SUBRECIPIENT 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 SUBRECIPIENT 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

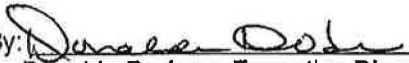
- b) **Insurance.** SUBRECIPIENT agrees to comply with the Insurance Requirements outlined in Exhibit D-1. If self-insured, SUBRECIPIENT shall provide documentation to the County of SUBRECIPIENT's selfinsured status by completing the Self-Insurance Certification form provided by the County.
- c) **Assignment.**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

SUBRECIPIENT

Oregon Child Development Coalition
9140 SE Pioneer Ct, Suite E
Wilsonville, OR 97070

CLACKAMAS COUNTY

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

By: 
Donalda Dodson, Executive Director

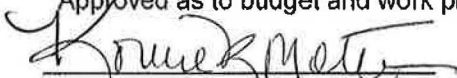
Dated: 12/12/19

Signing on behalf of the Board:

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

Dated: _____

Approved as to budget and work plan:


Korene Mather, Interim Director
Children, Family & Community Connections

Dated: 12/16/19

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Monthly Program Report
- Exhibit A-3: Quarterly Program Report
- Exhibit A-4: Client Feedback Survey and Report
- Exhibit B: Program Budget
- Exhibit C: Financial Report and Request for Reimbursement
- Exhibit D: Special and Standard Terms and Conditions
- Exhibit D-1: Subcontractor Insurance Requirements
- Exhibit E: Preschool Promise Operating Guidelines
- Exhibit F: Preschool Promise Program Requirements

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement #160440, Amendment with The State of Oregon, Department of Human Services, Aging and People with Disabilities Division for the Provision of Services to Clackamas County Residents

Purpose/Outcomes	To provide Older American Act (OAA) and Oregon Project Independence (OPI) funded services, as well as Special Project Allocation (SPA) funded evidence-based health promotion services for persons age 60 and over in Clackamas County
Dollar Amount and Fiscal Impact	The total agreement is \$5,935,600. Funded by Federal OAA Funds and State General Funds designated for the OPI and SPA Programs.
Funding Source	Federal Older American Act & State General Fund - \$292,364 of County General Funds are used to meet match requirements for internal programs.
Duration	Effective July 1, 2019 and terminates on June 30, 2021
Previous Board Action	071819-A6
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Counsel Review	County Counsel reviewed and approved the original agreement on 7/9/19 and this amendment on 12/16/19
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	9337

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Intergovernmental Grant Agreement #160440, Amendment 1 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Services and Supports. This amendment updates the grant funding for the Social Services Division to administer Older American Act (OAA) and Oregon Project Independence (OPI) funded services as well as Special Project Allocation (SPA) funds for continued sequestration mitigation and the evidence-based health promotion services for persons 60 and over living in Clackamas County. The services provided include nutrition programs, evidence-based health promotion activities, family caregiver supports, transportation, information and referral activities, and In-home services. These services link residents with resources to meet their individual needs. This helps them to remain independent and involved in their communities for as long as possible.

Social Services Division is the designated Area Agency on Aging for the Clackamas Planning and Service area designated by the State of Oregon, Department of Human Services, Aging and People with Disabilities Division, Community Services and Supports. The biennial allocation decreased by \$122,059 from \$6,057,659 to \$5,935,600. This agreement reflects the adjustments to the OAA funds as well as SPA Evidence-based funding for the 2019-2021 biennial agreement period. The expenses charged to General Fund to meet the match obligation are the Indirect and Allocated costs associated with the Program Staff who deliver these services. This amendment was reviewed and approved by County Council on December 16, 2019. It is retroactive to July 1, 2019

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that Richard Swift, H3S Director; or his designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

 Rodney A. Cook, H3S Deputy / For

Richard Swift, Director
Health Housing & Human Services



Grant Agreement Number 160440

**AMENDMENT TO
STATE OF OREGON
INTERGOVERNMENTAL GRANT AGREEMENT**

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

This is amendment number 1 to Grant Agreement Number 160440 between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as "DHS" and

**Clackamas County Social Services Division (CCSS)
District 2, Type A
Serving: Clackamas County
PO Box 2950 - 2051 Kaen Road
Oregon City, Oregon 97045
Telephone: 503-655-8640
Facsimile: 503-655-8889
E-mail address: brendadur@co.clackamas.or.us**

hereinafter referred to as "Recipient" or "AAA" or "County".

1. This amendment shall become effective on the date this amendment has been fully executed by every party and, when required, approved by Department of Justice. Recipient's performance of the Program described in Exhibit A, Part 1, may start **July 1, 2019**, shall be governed by the terms and conditions herein, and such expenses incurred by Recipient may be reimbursed once the Agreement is effective in accordance with the schedule of payments in Exhibit A, Part 2
2. The Agreement is hereby amended as follows:
 - a. Amend "**Grant Disbursement Generally**", **Section 3** only Language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**.

The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is ~~\$6,057,659.00~~. **\$5,935,600**. DHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. DHS will disburse the grant to Recipient as described in Exhibit A.

- b. Amend **EXHIBIT A Part 1 “Program Description Older Americans Act and Oregon Project Independence Services”** to add a new Section 7 Agency requirement concerning an AAA Advisory Council.

7. **Advisory Council** Area Agency on Aging advisory councils are key to provide support for each AAA, the responsibilities for the council shall include the following requirements in accordance with OAR 410.210.

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

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

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

- b. Area agency advisory councils shall:

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

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

- (3) Review and evaluate the effectiveness of the area agency in meeting the needs of elderly persons or persons with disabilities in the planning and service area.

(4) Meet at least quarterly. The meetings are subject to ORS 192.610 to 192.690. [1981 c.784 §11; 1989 c.224 §76; 1991 c.67 §101; 1993 c.116 §1; 2001 c.900 §79; 2007 c.70 §170; 2011 c.9 §52]

- c. Amend payments Effective **July 1, 2019**, in accordance with the **Exhibit A Part 1, Section 2 Area Plan**. funds use statement, “No funds will be authorized for use by AAA without submission and approval of the Area Plan”, therefore **Exhibit A, Part 2, “Payment and Financial Reporting, for Older American Act and Oregon Project Independence services”**, section 1.b only “**Funding Appropriations**”, is hereby amended as follows:

Deleted language is ~~struck through~~ and new language is **underlined and bold**.

- b. Payment for all work performed under this Agreement shall be subject to the provisions of ORS 293.462 and disbursements under this Agreement shall be as set forth below:

Older Americans Act	-\$3,321,973 <u>\$3,324,480</u>	CFDA 93.044, 93.045, 93.043, 93.052, 93.041
NSIP	-\$347,873 <u>\$344,444</u>	CFDA 93.053
IT Admin Funds	<u>\$7,293</u>	
Continued Seq Mitig Spa Funds	<u>\$201,117</u>	
Continued EBSPA Funds	<u>\$121,137</u> <u>\$0</u>	
Oregon Project Independence	<u>\$2,058,266</u>	
Other State Funds	<u>\$0.00</u>	

- d. Amend Exhibit A , Part 3 Special Terms and Conditions , to correct the numeric designation “7” for ”Confidentiality of Information” to the correct numeric order and is hereby restated , the deleted language is struck through and new language is underlined and bold.

7. 2 Confidentiality of Information

- e. Amend the agreement to include a new **Exhibit B, “Standard Terms and Conditions”** removing Exhibit B terms required for intergovernmental entities and replacing it with terms that have been approved for County Agreements, is hereby deleted and incorporated into this Agreement as found in Attachment 1 “**Exhibit B, Standard Terms and Conditions**”
- f. **Amend Exhibit E as shown at: <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/Pages/AAA-Financial.aspx>.**

3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect.

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4. **Recipient Data and Certification.** Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

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

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: () _____ Facsimile: () _____

Recipient Proof of Insurance. Recipient shall provide the following information upon submission of the signed Agreement Amendment. All insurance listed herein and required by Exhibit C of the original Agreement, must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

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

5. Signatures.

Clackamas County

By:

Authorized Signature

Printed Name

Title

Date

State of Oregon acting by and through its Department of Human Services

By:

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Steven Marlowe, Department of Justice Attorney
Department of Justice

Email approval on file

12/11/2019

Date

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 Recipient DHS, 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 Recipient or DHS 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 Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
 - a. Recipient represents and warrants as follows:
 - (1) **Organization and Authority.** Recipient is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. Recipient 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 Recipient of this Agreement (a) have been duly authorized by all necessary action by Recipient 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 Recipient is a party or by which Recipient 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 Recipient of this Agreement.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by Recipient 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) Recipient has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Recipient 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) Recipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) Recipient prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. DHS represents and warrants as follows:

- (1) Organization and Authority. DHS 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 DHS of this Agreement (a) have been duly authorized by all necessary action by DHS 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 DHS is a party or by which DHS 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 DHS 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 DHS and constitutes a legal, valid and binding obligation of DHS, 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 DHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow DHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. Recipient is not entitled to receive payment under this Agreement from any part of Oregon state government other than DHS. 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. DHS 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, Recipient shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Recipient 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. Recipient shall provide this designation and information on a form provided by DHS. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Recipient shall provide the changed information or designation to DHS on a DHS-approved form. DHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from the County.

6. Recovery of Overpayments. If billings under this Agreement, or under any other Agreement between Recipient and DHS, result in payments to Recipient to which Recipient is not entitled, DHS, after giving to Recipient written notification and an opportunity to object, may withhold from payments due to Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be

withheld, Recipient shall notify DHS that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

7. **Reserved.**

8. **Ownership of Intellectual Property.**

- a. **Definitions.** As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- (1) "Recipient Intellectual Property" means any intellectual property owned by Recipient and developed independently from the Work.
 - (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than DHS or County.
- b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, DHS will not own the right, title and interest in any intellectual property created or delivered by Recipient or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the Recipient owns, Recipient grants to DHS 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 8.b.(1) on DHS' behalf, and (3) sublicense to third parties the rights set forth in Section 8.b.(1).
- c. If state or federal law requires that DHS or Recipient grant to the United States a license to any intellectual property, or if state or federal law requires that DHS or the United States own the intellectual property, then Recipient shall execute such further documents and instruments as DHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or DHS. To the extent that DHS becomes the owner of any intellectual property created or delivered by Recipient in connection with the Work, DHS 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 Recipient to use, copy, distribute, display, build upon and improve the intellectual property.
- d. Recipient shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as DHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

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

- a. Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- b. Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by DHS to measure the delivery of Work, the

expenditure of payments or the performance by Recipient is untrue in any material respect when made;

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

- (3) Upon 30 days advance written notice to DHS, if DHS is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as Recipient may specify in the notice; or
- (4) Immediately upon written notice to DHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that Recipient no longer has the authority to meet its obligations under this Agreement.

b. DHS Termination. DHS 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 DHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of DHS under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, DHS may terminate this Agreement, immediately upon written notice to Recipient or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces DHS' legislative authorization for expenditure of funds to such a degree that DHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
- (3) Immediately upon written notice to Recipient if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that DHS 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 Recipient is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as DHS 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 Recipient or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that Recipient or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or

- (6) Immediately upon written notice to County, if DHS determines that Recipient or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.
 - c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.
12. **Effect of Termination.**
 - a. **Entire Agreement.**
 - (1) Upon termination of this Agreement, DHS shall have no further obligation to pay Recipient under this Agreement.
 - (2) Upon termination of this Agreement, Recipient shall have no further obligation to perform Work under this Agreement.
 - b. **Obligations and Liabilities.** Notwithstanding Section 12.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.
13. **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.
14. **Insurance.** Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.
15. **Records Maintenance; Access.** Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipients 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 Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that DHS 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. Recipient 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. Recipient shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

- 16. Information Privacy/Security/Access.** If the Work performed under this Agreement requires Recipient its subcontractor(s) to have access to or use of any DHS computer system or other DHS Information Asset for which DHS imposes security requirements, and DHS grants Recipient or its subcontractor(s) access to such DHS Information Assets or Network and Information Systems, Recipient shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
- 17. Force Majeure.** Neither DHS nor Recipient shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of DHS 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. DHS 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.
- 18. Assignment of Agreement, Successors in Interest.**
- a. Recipient shall not assign or transfer its interest in this Agreement without prior written approval of DHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as DHS may deem necessary. No approval by DHS of any assignment or transfer of interest shall be deemed to create any obligation of DHS 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.
- 19. 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.
- 20. Subcontracts.** Recipient shall not enter into any subcontracts for any of the Work required by this Agreement without DHS' prior written consent. In addition to any other provisions DHS may require, Recipient shall include in any permitted subcontract under this Agreement provisions to require that DHS will receive the benefit of subcontractor performance as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 4, 8, 15, 16, 18, 21, and 23 of this Exhibit B. DHS' consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.
- 21. No Third Party Beneficiaries.** DHS and Recipient 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 DHS to assist and enable DHS 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.

22. **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, 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.
23. **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.
24. **Survival.** Sections 1, 4, 5, 6, 8, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 26, 28, 29, 30 and 31 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.
25. **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 Recipient or DHS 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.

DHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324

26. **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.
27. **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.

28. **Reserved.**

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

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

30. **Indemnification by Subcontractors.** Recipient 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 Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

- 31. Stop-Work Order.** DHS may, at any time, by written notice to the County, require the Recipient 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, Recipient 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, DHS 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 11. Termination.

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

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval to Accept Award and Sign an Intergovernmental Agreement with the State of Oregon, Housing and Community Services Department to administer Winter Shelter Funds for Warming Season 19-20

Purpose/Outcomes	Seeking approval to accept the award and sign an Intergovernmental Agreement to increase shelter capacity by funding operational costs for the 19-20 warming center season.
Dollar Amount and Fiscal Impact	\$150,000 revenue
Funding Source	State of Oregon, Housing and Community Services Department. No County General Funds are involved.
Duration	November 1, 2019 through May 15, 2020
Previous Board Action	None
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with the Social Services Division's strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	County Counsel approved the IGA on 12-19-19
Contact Person	Brenda Durbin, Director, Social Services Division – 503-655-8641
Contract No.	9525

BACKGROUND:

The Social Services Division of the Health, Housing & Human Services Department (SSD) received an award notification and Intergovernmental Grant Agreement provided through the State of Oregon, Housing & Community Services Department (OHCS). This grant awards \$150,000 in funding to increase shelter capacity by funding operational costs for the 19-20 warming center season.

SSD requests approval to accept the award and sign the agreement. OHCS decided to award each Continuum of Care region a one-time allocation of up to \$150,000 to

support winter shelter operations. A simple survey was required to access these funds. It was not a competitive process.

RECOMMENDATION:

Staff recommends the Board approval of this grant award and agreement, and that Richard Swift, H3S Director, or his designee; be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

Handwritten signature of Rodney Cook, H3S Deputy / FOL.

Richard Swift, Director
Health, Housing and Human Services Department

STATE OF OREGON
OREGON HOUSING AND COMMUNITY SERVICES
GRANT AGREEMENT #5135

Shelter Funds - Warming Season

This Grant Agreement (this "Agreement") is between the State of Oregon acting by and through its **Oregon Housing and Community Services Department** ("Agency" or "OHCS") and **Clackamas County acting by and through its Department of Health, Housing and Human Services**, a Local Government ("Grantee"), each a "Party" and, together, the "Parties".

SECTION 1: RECITALS

- 1.1 Grantee is willing to execute this Agreement obligating itself to comply with the terms and conditions hereof and to fulfill such obligations in a manner complementary to and in furtherance of its obligations arising from the Agreement it executed with Agency for receipt of the funds described herein.
- 1.2 The 2019 Legislative Session, through SB 5512, granted Agency general fund for the purpose of strengthening and increasing the shelter capacity in high needs areas.

SECTION 2: INCORPORATIONS OF RECITALS; AGREEMENT DOCUMENTS

The foregoing Recitals are incorporated herein by reference, provided, however, that the Recitals shall not be deemed to modify the express provisions hereinafter set forth. This Agreement consists of the following documents that are listed in descending order of precedence:

- Exhibit A (Project Details and Scope of Work)
- Attachment 1 (The "Invoice")

SECTION 3: EFFECTIVE DATE AND DURATION

Unless terminated or extended, this Agreement covers the period **November 1, 2019 through May 15, 2020**. The expenditure period for Grant Funds under this Agreement is November 1, 2019 through April 15, 2020. The expenditure period covers the 2019-20 winter season.

The effective date of this Agreement is November 1, 2019. The expiration of the term of this Agreement, including if this Agreement is terminated prior to the end of the above-described term, shall not terminate remedies available to Agency or to Grantee hereunder.

SECTION 4: WORK TO BE PERFORMED

- 4.1 Grantee shall perform all Work described in Exhibit A, Project Details and Scope of Work (the "Work") in accordance with the terms and conditions of this Agreement and other applicable law whether or not described in this Agreement. Grantee shall perform its obligations hereunder efficiently, effectively and within applicable grant timelines, all to the satisfaction of Agency.
- 4.2 Changes to the approved Work by the Grantee shall require the prior written approval of Agency. Requests for and justification of any change must be submitted in writing to Agency and be approved in writing by Agency prior to commencement of the requested change.

SECTION 5: CONSIDERATION; REPORTING

- 5.1 Agency has agreed to make a conditional award of funds to the Grantee not-to-exceed amount of **One Hundred and Fifty Thousand Dollars (\$150,000.00)** (the "Grant"). Upon execution of the Agreement by all parties, distribution of Grant funds will be made by Agency to Grantee in advance upon submission of Attachment 1 (the "Invoice") by Grantee and approval by Agency.
- 5.2 Upon expiration or termination of this Agreement, Grantee shall return all unexpended Grant funds to the Agency within 60 days.
- 5.3 Any desired use of funds by Grantee that differs from the Work must first be approved in writing, by Agency. 100% of the Grant must be used to provide services as indicated in the Work.
- 5.4 Grantee shall submit a final report within 30 days following the end of the winter warming season (April 15, 2020), due May 15, 2020. The final report must include the following information:
 - Overall success and/or challenges of the winter shelter operation project;
 - Lessons learned during the project you may use in future shelter operations;
 - Description of how partnerships were leveraged and operationalized

SECTION 6: FUNDING PROVISIONS

6.1 Funding Appropriation.

Funds specified in the Consideration section of this Agreement or otherwise may include funds that have not yet been appropriated but which Agency anticipates receiving for use in funding this Agreement and their identification herein is not a guarantee that Grantee will receive any or all such funds. Any and all disbursements of funds hereunder are subject to the terms and conditions of this Agreement, including (without limitation) that such funds are lawfully and fully appropriated, allocated, and

available to Agency with authorizing limitation. Grantee's obligation to perform the Work as stated in Exhibit A is conditioned upon Agency receiving corresponding Grant funds or other funds available for reimbursement of such appropriate Work costs.

6.2 Nonexclusive Remedies Related to Funding

6.2.1 Redistribution or Retention of Funds

If Grant funds are not obligated for reimbursement by Grantee in a timely manner as determined by Agency at its sole discretion, Agency may reduce Grantee funding as it determines to be appropriate in its sole discretion and redistribute such funds to other Grantees or retain such Grant funds for other Agency use. This remedy is in addition to any other remedies available to Agency under this Agreement or otherwise.

6.2.2 Reservation of Right to Recapture

Agency reserves the right to recapture funds from Grantee based on misrepresentation, underperformance, non-compliance, fraud, expiration or termination of this Agreement.

6.3 Dual Payment

Grantee shall not be compensated for work performed under this Agreement from any other department of the State of Oregon, nor from any other source, including the federal government, unless such funds are used solely to increase the total Work provided under this Agreement. Any additional funds received through or for activities arising under this Agreement shall immediately be reported to Agency.

6.4 Grant Funds

Grant funds are used in conjunction with this Agreement. Grantee assumes sole liability for breach of the conditions of the grant (including all terms and conditions of this Agreement) by Grantee or by any of its subrecipients, agents or assigns and shall, upon breach of grant conditions whether such breach is by Grantee or by any of its subrecipients, agents or assigns, hold harmless and indemnify the State for an amount equal to the grant funds received under this Agreement together with any additional damages resulting to Agency; or if there are legal limitations on the indemnification ability of the Grantee, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount of grant funds received under this Agreement.

6.5 Indemnification

Subject to applicable law, Grantee shall and shall require by contract that its subrecipients shall, defend, save, hold harmless, and indemnify (consistent with ORS Chapter 180) the State of Oregon and Agency and their officers, employees and agents from and against all claims, suites, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subrecipients, or agents under this Agreement.

SECTION 7: REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants to Agency that:

- 7.1 Grantee is a Local Government duly organized and validly existing. Grantee has the power and authority to enter into and perform this Agreement;
- 7.2 The making and performance by Grantee of this Agreement (a) have been duly authorized by Grantee, (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 Grantee'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 Grantee is party or by which Grantee may be bound or affected. No authorization, consent, license, approval of, or 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, other than those that have already been obtained;
- 7.3 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;
- 7.4 Grantee shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

SECTION 8: 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 Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon

of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 9: CONTRIBUTION

- 9.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. 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 the Other Party of the notice and copies required in this Section and a 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 contribution obligation under this Section 10 with respect to the Third Party Claim.
- 9.2** With respect to a Third Party Claim for which Agency is jointly liable with Grantee (or would be if joined in the Third Party Claim), Agency 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 Agency on the one hand and of Grantee on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency 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. Agency'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.
- 9.3** With respect to a Third Party Claim for which Grantee is jointly liable with Agency (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 Agency in such proportion as is appropriate to reflect the relative fault of Grantee on the one hand and of Agency on the other hand in connection with the events that 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 Agency 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 if it had sole liability in the proceeding.

SECTION 10: REMEDIES

- 10.1** If Agency determines, in its sole discretion, that Grantee has failed to timely comply with any material obligation of this Agreement, including but not limited to any Agency directive or term of a corrective action plan, Agency may exercise any remedy available to it under this Agreement, or under applicable law. Remedies may include, but are not limited to: (a) terminating any part or all of this Agreement; (b) withholding and/or reducing grant funds; (c) disallowing costs; (d) suspending and/or recouping payments; (e) appointing a receiver for the receipt and administration of grant funds under this Agreement; (f) requiring corrective action as it may determine to be appropriate; (g) bringing suit or action in an appropriate forum for the enforcement of this Agreement and any remedy, as well as the recovery of damages, including by temporary restraining order, injunction, specific performance or otherwise; (h) debarring or otherwise limiting Grantee's eligibility for other funding from Agency; (i) instituting criminal action for misstatements or fraud; and (j) requesting investigation, audit and/or sanction by other governmental bodies.
- 10.2** The rights and remedies of Agency provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided under this Agreement, or by law. Notwithstanding the foregoing, Grantee's exposure to money damages shall not exceed the limit of liability of Grantee under the Oregon Tort Claims Act (ORS 30.260 through 30.300). Grantee'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.

SECTION 11: RECOVERY OF OVERPAYMENTS

If payments to Grantee under this Agreement, or any other agreement between Agency and Grantee, exceed the amount to which Grantee is entitled, Agency may, after notifying Grantee in writing, withhold from payments due Grantee under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 12: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 13: TERMINATION

13.1 Termination by Agency

13.1.1 Agency may immediately, and in its sole discretion terminate this Agreement, in whole or in part, after written notice to the Grantee "for cause". For the purposes of this Agreement "for cause" shall mean any material misrepresentation, malfeasance, gross negligence, abandonment of performance or loss of authority to perform any of its obligations, whether directly by Grantee or through one or more of its agents, subcontractors, successors or assigns in this Agreement.

13.1.2 Agency may, upon 30 days' written notice, terminate this Agreement in whole or in part *without cause* if Grantee or through one or more of its agents, subcontractors, successors or assigns fails to timely and diligently perform in a non-negligent manner one or more material obligations owed to Agency under this Agreement, but not limited to, one or more of the following:

- a. Grantee fails to fulfill any of the timeline obligations under this Agreement;
- b. Grantee fails to comply timely with any reasonable directives received from Agency or from an agency that is the original source of the Grant funds;
- c. Grantee uses funds provided under this Agreement improperly or illegally;
- d. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that Agency is prohibited from paying for or lacks authority to pay for any Services performed under this Agreement or to pay for any such performance from the planned funding source(s);
- e. Agency funding, appropriations, limitations or expenditure authorization to expend funds is denied, suspended, reduced or eliminated;
- f. Any certification, license or certificate required by law to be held by Grantee or others to provide the services required by this Agreement is for any reason denied, revoked, suspended, limited or not renewed;
- g. Grantee (a) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (e) is adjudicated as bankrupt or insolvent, or (f) fails to controvert in a timely or appropriate manner, or agrees in writing to, an involuntary petition for bankruptcy;
- h. Grantee is suspended, debarred, declared ineligible or voluntarily excluded from participating in agreements or contracts with any federal department

or agency.

13.1.3 Agency may withhold reimbursement to Grantee in an amount equal to compensation to Agency for damages due to Grantee's breach of this Agreement until such time as the exact amount of damages has been adjudicated. However, in no event shall Grantee's liability to Agency exceed the amount of the of the Grantee's Oregon Tort Claims Act (ORS 30.260 through 30.300). Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

13.2 Termination by Grantee

13.2.1 Grantee may, upon 30-days written notice, terminate this Agreement in whole or in part, if;

- a. Agency unreasonably fails to provide timely funding hereunder and does not correct such failure within the 30-day notice period.
- b. Agency provides one or more material directives which are contrary to federal or state laws, rules, regulations, guidelines, or original funding source requirements and does not correct such directives within the 30-day notice period.

13.3 Other Termination

13.3.1 Either party may terminate this Agreement in whole or in part immediately upon written notice to the other party if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a competent court (in a final determination) in such a way that one or both parties no longer has the authority to meet its obligations under this Agreement.

13.3.2 Upon issuance of any notice to terminate this Agreement and prior to the effective date of the termination, Agency may, in its sole and absolute discretion, require that Grantee obtain prior Agency approval from it for any additional expenditures that would obligate Agency to reimburse it from Agreement grant funds or otherwise.

13.3.3 Except as set forth in section 13.1.3, above, neither Grantee nor Agency shall be relieved of its liability to the other party for damages sustained by virtue of its breach of this Agreement.

13.3.4 In the event of termination of this Agreement by either party, all unexpended money, and property, and copies of all finished or unfinished documents, data, financial reports, audit reports, program reports, studies and reports purchased or prepared by Grantee under this Agreement shall be delivered to Agency within sixty (60) days of the date of termination or upon such reasonable date requested by Agency.

13.3.5 Termination of this Agreement shall not impair or invalidate any remedy available to

Agency or to Grantee hereunder, at law, or otherwise.

SECTION 14: INSURANCE

The Grantee shall insure, or self-insure, and be independently responsible for the risk of its own liability for claims within the scope of the Oregon Tort Claims Act (ORS 30.260 through 30.300). Subcontractors and subrecipients are required to have insurance at the limited specified for Local Governments under the current Oregon Tort Claims.

SECTION 15: NONAPPROPRIATION

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

Grantee's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Grantee receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Grantee, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 10 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Grantee.

SECTION 16: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties unless otherwise expressly provided within this agreement.

SECTION 17: NOTICE

- 17.1** Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

17.2 A Party may designate a new authorized representative by written notice to the other Party without the need for formal amendment.

SECTION 18: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 11, 12, 14, and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 19: 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 will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 20: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 21: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement.

SECTION 22: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Grantee is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

(Remaining page left blank)

SECTION 23: INTENDED BENEFICIARIES

Agency and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be

construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 24: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to Grantee after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 25: ASSIGNMENT AND SUCCESSORS IN INTEREST

Grantee may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Grantee to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Grantee's assignment or transfer of its interest in this Agreement will not relieve Grantee of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 26: TIME IS OF THE ESSENCE

Time is of the essence in Grantee's performance of its obligations under this Agreement.

SECTION 27: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 28: RECORDS MAINTENANCE AND ACCES

28.1 Grantee and its subrecipients shall prepare and maintain such records as necessary for

performance of and compliance with the terms of this Agreement.

- 28.2** Grantee shall and shall require its subrecipients retain all records pertinent to expenditures incurred under this Agreement and otherwise in a manner consistent with the requirements of state and federal law, including but not limited to those requirements listed in Agency's Record Retention Schedule, as may be modified from time to time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other action that involves any of the records cited, then such records must be retained until final completion of such matters.
- 28.3** Grantee shall and shall require its subrecipients maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles.
- 28.4** Agency, the Oregon Secretary of State's Office, the federal government and the duly authorized representatives of such entities shall have free access to and the right to copy all or any part of the books, documents, papers, audits and records of Grantee and subrecipients which are related to this Agreement as they deem appropriate, including without limitation, for the purpose of making audit, examination, excerpts, and transcripts. These records are the property of Agency who may take possession of them at any time after three (3) business days' notice to Grantee, as the case may be. Grantee or may retain copies of all records taken by Agency under this Section.

SECTION 29: SUBRECIPIENT AGREEMENTS

- 29.1** Grantee shall require and cause its subrecipients to comply with all applicable provisions of this Agreement between Agency and Grantee, each of which must be specifically incorporated into the subrecipient agreements in a manner satisfactory to Agency. Agency reserves the right to request that any subrecipient agreement be submitted to it for review and approval by Agency within 10 business days from the date of written notification.
- 29.2** Grantee shall require and cause that all of its subrecipient agreements related to this Agreement must include language specifying that such agreements are subject to termination upon such a directive to Grantee by Agency and that Agency shall not be liable to any of the parties of that agreement or to other persons for directing that such agreement be terminated.
- 29.3** Grantee shall have a written agreement with each subrecipient that is listed in and consistent with the Grantee's Work that identifies:
- a. The services or benefits that the subrecipient must provide when delivering the program or Work.
 - b. The laws and regulations with which the subrecipient must comply under the terms of the agreement (including but not limited to program specific requirements such as eligibility criteria and matching obligations, public policy for protecting civil rights and the environment, written procedures for appeal by clients of subrecipient determinations, government-wide administrative mandates affecting the

subrecipient's accounting and record keeping systems, and local laws imposed by Grantee).

- c. The Grantee's and Agency's monitoring rights and responsibilities and the methods used by Grantee for monitoring.
- d. A provision to certify that the subrecipient is an independent contractor and not an agent of Agency or of Grantee.
- e. A provision that the subrecipients shall, defend, save, hold harmless, and indemnify (consistent with ORS Chapter 180) the State of Oregon and Agency and their officers, employees and agents from and against all claims, suites, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or, relating to the activities under this Agreement.

SECTION 30: GRANTEE STATUS

- 30.1** Grantee shall perform all work under this Agreement as an independent contractor. Grantee is not an officer, employee or agent of the Agency or State, as those entities are respectively defined in ORS chapter 456 and in ORS 30.265, with respect to work performed under this Agreement.
- 30.2** Grantee agrees that insurance coverage, whether purchased or by self-insurance, for Grantee's agents, employees, officers and/or subrecipients, subcontractors, is the sole responsibility of Grantee.
- 30.3** Grantee certifies that it is not employed by or contracting with the federal government for the work covered by this Agreement.
- 30.4** Grantee certifies to the best of its knowledge and belief that neither the Grantee nor any of its principals, officers, directors or employees:
 - a. Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - c. Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses

enumerated above;

- d. Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default; and
- e. Is included on the list titled “**Specially Designated Nationals and Blocked Persons**” maintained by the Office of Foreign Assets Control for the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

SECTION 31: OREGON FALSE CLAIMS ACT

- 31.1** Grantee acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action or conduct by Grantee pertaining to this Agreement that constitutes a “claim” (as defined by ORS 180.750(1)). By its execution of this Agreement, Grantee certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement. In addition to other liabilities that may be applicable, Grantee further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Grantee.
- 31.2** Without limiting the generality of the foregoing, Grantee represents and warrants that:
 - a. Grantee’s representations, certifications, and other undertakings in this Agreement are not False Claims Act Violations; and
 - b. None of Grantee’s performance under this Agreement, including but not limited to any invoices, reports, or other deliverables in connection with its performance of this Agreement, will constitute False Claims Act Violations.

For purposes of this Section 33, a “False Claims Act Violation” means a false claim as defined by ORS 180.750(2) or anything prohibited by ORS 180.755.

- 31.3** Grantee shall immediately report in writing, to Agency, any credible evidence that a principal, employee, agent, subcontractor, subrecipient, or other person has made a false claim or committed a prohibited act under the Oregon False Claims Act, or has committed a criminal or civil violation of laws pertaining to fraud, bribery, gratuity, conflict of interest, or similar misconduct in connection with this Agreement or any moneys paid under this Agreement.
- 31.4** Grantee understands and agrees that any remedy that may be available under the Oregon False Claims Act shall be in addition to any other remedy available to the State of Oregon or Agency under any other provision of law, or this Agreement.

SECTION 32: CONFLICT OF INTEREST

- 32.1** A conflict exists if a decision or recommendation could affect the finances of the public official or the finances of a relative. A few other situations can present a conflict of interest, as well. If a conflict of interest exists, the public official must always give notice of the conflict, and in some situations the public official is restricted in his or her ability to participate in the matter that presents the conflict of interest.
- 32.2** Grantee must establish a conflict of interest policy which outlines the process for disclosing in writing any potential conflict of interest. Any perceived or actual conflict of interest must be reported to Agency in a timely manner.

SECTION 33: CONFIDENTIALITY

- 33.1** Grantee shall, and shall require and cause its subrecipients and vendors to protect the confidentiality of all information concerning clients and other applicants for and recipients of services funded by this Agreement. Neither it nor they shall release or disclose any such information except as necessary for the administration of the program(s) funded under this Agreement, as authorized in writing by the client, applicant or recipient of such services, or as required by law. All records and files shall be appropriately secured to prevent access by unauthorized persons.
- 33.2** Grantee shall, and shall require and cause its subrecipients and vendors to ensure that all its officers, employees and agents are aware of and comply with this confidentiality requirement.

SECTION 34: MONITORING REQUIRED

34.1 Agency Authorized to Monitor Grantee

Agency may monitor the activities of each Grantee and its subrecipients and vendors, as it deems necessary or appropriate, among other things, to ensure Grantee and its subrecipients comply with the terms of this Agreement and that Grant fund awards are used properly for authorized purposes hereunder. Agency also may the activities and records of Grantee and its subrecipients and vendors to ensure that performance goals are achieved as specified in this Agreement, including without limitation in the Scope of Work and that performance is to the satisfaction of Agency. Monitoring activities may include any action deemed necessary or appropriate by Agency including, but not limited to the following: (1) the review (including copying) from time to time of any and all Grantee, subrecipient, and vendor files, records and other information of every type arising from or related to performance under this Agreement; (2) arranging for, performing, and evaluating general and limited scope audits; (3) conducting or arranging for on-site and field visits and inspections; (4) review of Grantee fiscal and program reports, and requiring appropriate Request for Funds documentation as well as such other information and clarification as it deems appropriate, prior to providing a Request

for Funding approval, whether in whole, in part, or otherwise; and (5) evaluating, training, providing technical assistance and enforcing compliance of Grantee, subrecipient(s), vendors, and their officers, employees, agents, contractors and other staff. Agency may utilize third parties in its monitoring and enforcement activities, including monitoring by peer agencies. Agency monitoring and enforcement activities may be conducted in person, by telephone and by other means deemed appropriate by Agency and may be effected through contractors, agents or other authorized representatives. Grantee consents to such monitoring and enforcement by Agency and agrees to cooperate fully with same, including requiring by agreement and causing that its subrecipients, vendors and contractors so cooperate.

Agency reserves the right, at its sole and absolute discretion, to request assistance in monitoring from outside parties including, but not limited to the Oregon Secretary of State, the Attorney General, the federal government, and law enforcement agencies.

34.2 Grantee Shall Fully Cooperate

Grantee shall fully and timely cooperate with Agency in the performance of any and all monitoring and enforcement activities. Failure by Grantee or any of its subrecipients or vendors to comply with this requirement is sufficient cause for Agency to require special conditions, take such other action (including the exercise of available remedies) as it deems appropriate, and may be deemed by Agency as a material failure by the Grantee to perform its obligations under this Agreement.

34.3 Grantee Shall Monitor Its Subrecipients

Grantee shall perform onsite visits to monitor the activities and expenditures of its subrecipients as is reasonable to ensure compliance with (and necessary under) applicable Program Requirements or as otherwise directed by Agency, but in no case less than at least once during the term of this Agreement.

The activities of any subrecipient shall be monitored to ensure, inter alia, that grant funds are used only for authorized purposes in compliance with this Agreement, including but not limited to specific program requirements, and that performance goals are achieved as specified in the Work.

34.4 Monitoring

34.4.1 Agency generally will advise the Grantee as to its observations and findings generated by any on-site visit; usually through an exit interview. Within 60 days after an on-site inspection, Agency will endeavor to provide Grantee with a written report as to its findings from that inspection. Agency may advise the Grantee of any corrective action that it deems appropriate based upon its monitoring activities or otherwise. Grantee shall timely satisfy such corrective actions required by Agency.

34.4. 2 Agency may review (including copying) from time to time any and all Grantee

and subrecipient(s) files, records, and other information of every type arising from or related to performance under this Agreement. Within 60 days after a review, Agency will endeavor to communicate in writing to the Grantee. Agency may advise the Grantee of any corrective action that it deems appropriate based upon its monitoring activities or otherwise. Grantee shall timely satisfy such corrective actions as reasonably required by Agency.

34.5 Monitoring: Major Findings Resolution

Agency may track and follow up with Grantee regarding the correction by Grantee of findings made or other corrective actions required in Agency's monitoring of Grantee's performance under this Agreement. The tracking record developed by Agency may include, without limitation: findings, corrective actions, deliverables, due dates, responsible parties, actions taken, and final resolution. Grantees shall resolve findings and other required corrective actions within the timeframes reasonably given by Agency by written report or otherwise.

SECTION 35: UNALLOWABLE COSTS

Grantee shall review and comply with the allowable costs and other provisions applicable to expenditures under the particular grant programs covered by this Agreement. If Grantee makes expenditures or incurs costs for purposes or amounts inconsistent with the allowable costs or any other provisions governing expenditures under this Agreement, Agency may exercise any and all remedies under this Agreement, at law or otherwise that it deems, in its sole discretion, to be necessary or appropriate.

SECTION 36: DISALLOWANCE COSTS

- 36.1** Agency neither is responsible for nor shall it pay for any costs disallowed (a Disallowance of Costs) either upon a Request for Funds or as a result of any audit, review, site visit, or other disallowance action by Agency except for costs incurred by Grantee solely due to the willful misconduct or gross negligence of Agency, its employees, officers or agents. If a cost is disallowed by Agency after reimbursement has occurred, Grantee shall repay all disallowed costs to Agency upon written notice within the time frame specified by Agency, which in no event shall exceed thirty (30) days.
- 36.2** Grantee shall cooperate and shall cause its subrecipients to cooperate with Agency and all appropriate investigative agencies and shall assist in recovering invalid payments.

SECTION 37: NO LIMITATIONS ON ACTIONS OF AGENCY IN EXERCISE OF ITS GOVERNMENT POWERS

Nothing in this Agreement is intended, nor shall it be construed, to in any way limit the actions of Agency in the exercise of its governmental powers. It is the express intention of the parties hereto that Agency shall retain the full right and ability to exercise its governmental powers

with respect to the Grantee, the grant funds, and the transactions contemplated by this Agreement to the same extent as if it were a party to this Agreement, and in no event shall Agency have any liability in contract arising under this Agreement by virtue of any exercise of its governmental powers.

SECTION 38: DIVERSITY, EQUITY AND INCLUSION

Agency and Grantee commit to intentional, data driven approach to reduce disparities in housing and social service provisions. Agency commits to creating a system to analyze Agency -funded programs and remove identified barriers to accessing opportunities within those programs.

SECTION 39: CERTIFICATIONS AND SIGNATURE OF GRANTEE'S AUTHORIZED REPRESENTATIVE

THIS AGREEMENT MUST BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF GRANTEE.

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

- a. The undersigned is a duly authorized representative of Grantee, has been authorized by Grantee to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Grantee;
- b. By signature on this Agreement for Grantee, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Grantee and that Grantee is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.
- c. To the best of the undersigned's knowledge, Grantee has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts.
- d. Grantee and subrecipients' employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>; and
- e. Grantee is bound by and will comply with all requirements, terms and conditions contained in this Agreement; and

f. Grantee further certifies to having a formal statement of nondiscrimination in employment policy.

(Signatures on next page)

SECTION 40: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its Oregon Housing and Community Services Department

OHCS Director or delegate _____
Date

Agreement/Grant Administrator _____
Date

Agency's Grant Administrator:
Andrea Bell, Homeless Services Manager
OHCS - 725 Summer St, Suite B
Salem, OR 97301
503-986-0971
Andrea.Bell@oregon.gov

Approved for Legal Sufficiency in accordance with ORS 291.047

Exempt per OAR 137-045-0050

CLACKAMAS COUNTY (GRANTEE)

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

Richard Swift, Director _____
Date
Health Housing and Human Services Department

Approved as to form:



Clackamas County Counsel 12/19/19

Date

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Agreement #18623 with
Ride Connection, Inc. to Provide Funding for Rides Provided
by Members of the Clackamas County Transportation Consortium

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Amount \$206,670. This agreement is funded through the agreements with TriMet and Ride Connection for TriMet General Fund dollars
Funding Source	TriMet General Funds. No County General Funds are involved
Duration	Effective July 1, 2019 and terminates on June 30, 2020
Previous Board Action	
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Counsel Review	County Counsel reviewed and approved the agreement on 12/19/19
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 9558

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18623 with Ride Connection, Inc. This Agreement provides funding for rides that originate inside the TriMet service district. All rides are provided throughout the County by members of the Clackamas County Transportation Consortium (CCTC). This agreement provides the funding for the core base-services of the CCTC programming that is provided inside the TriMet district. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. The Centers located in Estacada, Gladstone, Lake Oswego, Milwaukie, and Oregon City provide rides in lift equipped mini-buses and/or vans to residents in their service area. The transportation services provided by senior centers are primarily to the centers for participation in the nutrition programs and the various services and recreational programs offered at the centers. However, the Centers also provide group transportation for shopping, personal business, and medical appointments in their local area. The TRP program utilizes this funding to provide rides with volunteer drivers in their privately owned autos driven. TRP provides

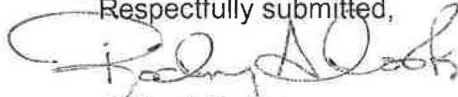
transportation throughout the county and to medical facilities located in the Portland-metro area. The majority of TRP rides are for medical transportation. TRP also provides rides for residents to conduct other personal business; including accessing food banks and grocery stores. In general, transportation is provided weekdays between 8:00 am and 5:00pm.

This agreement is late due to Ride Connection not being able to release agreements to its sub-contractors until TriMet released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY19-20. County Council reviewed and approved this agreement on 12/19/19. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, H3S Deputy / For

Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18623
BETWEEN
Ride Connection, Inc. and Clackamas County**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing & Human Services Department, by and through the Social Services Division. ("Subrecipient")

RECITALS:

1. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County which provides transportation services ("Services") inside the TriMet Service District.
2. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved TriMet general funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$206,670. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
3. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

A. Subrecipient agrees to comply with and use the funds in accordance with the terms of this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and Ride Connection regarding disbursement of TriMet general funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance and the Ride Connection Operations Manual for Transportation Managers (<https://rideconnection.org/partner>).

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's

duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

- B. Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.
- C. Audit Right** – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

- D. Subcontracts** – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

(1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or

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

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

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

2. Audit Requirements/Financial Management Procedure

- A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient's annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of

Subrecipient responsible for the financial management of funds received under this Agreement.

- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (a) disputes between Ride Connection and Subrecipient, (b) litigation or settlement of claims arising out of the performance of this contract, or (c) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection and TriMet reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet or ODOT hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

- A. Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.
- B. Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

- A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the negligent acts or omissions of Subrecipient, its officers, directors, employees, or agents under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.

- B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the negligent acts or omissions of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- i. Bodily injury or death to any person;
 - ii. Property damage to any personal or real property owned by anyone;
 - iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - iv. Infringement of any intellectual property or other third party rights;
 - v. Discharge or causing the discharge of any hazardous or polluting substance; and
 - vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitee Consent - Subrecipient shall not defend any claim in the name of TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

7. Vehicle/ Operator Requirements

- A. Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry

16 or more passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

- B. Subrecipient shall perform criminal, Department of Motor Vehicles and employment background checks as part of the eligibility requirements for all drivers.
- C. Subrecipient shall only let approved drivers transport customers or drive Ride Connection network vehicles.

8. Funding

- A. No more than monthly, Ride Connection shall reimburse Subrecipient for costs associated with activities outlined in Exhibit A. Reimbursement requests will only be paid when actual costs have been incurred and not beforehand.

Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

- B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$206,670**.
- C. Subrecipient shall document eligible use TriMet general funds in accordance with this Agreement.
- D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at accountspayable@rideconnection.org.
- E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

9. Term

This Agreement shall be in effect from 7/1/2019 through 6/30/2020, unless the Agreement is terminated earlier as provided in this Agreement.

10. Communications

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

Ride Connection:	Subrecipient:
Scott Gates	Stefanie Reid-Danielson
Ride Connection	Clackamas County
9955 NE Glisan St.	2051 Kaen Rd, Rm 135
Portland, OR 97220	Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

11. Termination for Default

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

- 1) Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- 2) Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- 3) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
- 4) Subrecipient fails to follow procedures set forth in the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>);
- 5) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
- 6) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- 7) Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
- 8) Subrecipient may terminate the Agreement, in whole or in part, upon 30 days written notice to Ride Connection.

- B. Subrecipient may terminate this Agreement in the event Subrecipient fails to receive expenditure authority sufficient to allow Subrecipient, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that Subrecipient can no longer perform under the Agreement. The termination of this Agreement shall not prejudice any rights or obligations accrued to either party prior to termination.

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

12. Assignment/Subcontracts

Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

13. Dispute Resolution

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

- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

14. Claims, Notice

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

15. Confidential Information

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

16. Governing Law

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

17. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 13 (Dispute Resolution); 15 (Confidential Information); 16 Governing Law, 17 (Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

18. Entire Agreement/Authority

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

19. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

- The rest of this page is intentionally left blank. -

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

Ride Connection, Inc.

Signature

Printed Name

Title

Date

CLACKAMAS COUNTY

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

By: _____
Richard Swift
Health, Housing & Human Services Dept.

Date

Approved as to Form:

By:  _____ 12/19/2019
County Counsel

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Agreement #18624 with
Ride Connection, Inc. to Provide Funding for Rides Provided
by the Social Services Division-Transportation Reaching People Unit

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People and transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Amount \$5,803. This agreement is funded through the agreements with TriMet and Ride Connection for TriMet General Fund dollars
Funding Source	TriMet General Funds. No County General Funds are involved
Duration	Effective July 1, 2019 and terminates on June 30, 2020
Previous Board Action	
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
Counsel Review	County Counsel reviewed and approved the agreement on 12/19/19
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 9560

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18624 with Ride Connection, Inc. This Agreement provides funding for rides that originate inside the TriMet service district and are provided by volunteer drivers through the Transportation Reaching People ("TRP") program at Social Services. This is continued funding for FY2019-20 to pay a mileage reimbursement stipend to volunteer drivers of the Ride Together program within TRP. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services TRP program. The Ride Together program provides an additional flexible resource to these residents.

Someone in need of transportation services who has a friend or neighbor who is willing to meet some of their transportation needs can register with the Social Services TRP program. After completing a background check and training, the driver can be reimbursed for approved mileage. The Rider and Driver coordinate the dates and times of these rides which provides the flexibility to meet the Riders evening and weekend transportation needs that other programs cannot currently provide. These

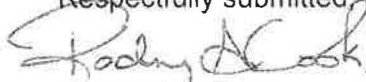
volunteer drivers undergo the same screening and receive the same training as all the other Clackamas County Transportation Consortium drivers.

This agreement is late due to Ride Connection not being able to release agreements to its sub-recipients until TriMet released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY19-20. County Council reviewed and approved this agreement on 12/19/19. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,

 H3S Deputy / FOL

Richard Swift, Director
Health, Housing and Human Services

**SERVICES AGREEMENT #18624
BETWEEN
Ride Connection, Inc. and Clackamas County**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing & Human Services Department, by and through the Social Services Division. ("Subrecipient")

RECITALS:

1. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County which provides transportation services ("Services") inside the TriMet Service District.
2. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved TriMet general funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$5,803. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
3. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

AGREEMENTS:

1. General

A. Subrecipient agrees to comply with and use the funds in accordance with the terms of this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and Ride Connection regarding disbursement of TriMet general funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance and the Ride Connection Operations Manual for Transportation Managers (<https://rideconnection.org/partner>).

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's

duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

B. Scope of Services and Changes - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.

C. Audit Right – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

D. Subcontracts – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

(1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or

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

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

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

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

A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient's annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**

B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of

Subrecipient responsible for the financial management of funds received under this Agreement.

- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (a) disputes between Ride Connection and Subrecipient, (b) litigation or settlement of claims arising out of the performance of this contract, or (c) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection and TriMet reserve the right to request additional information as may be necessary to comply with state reporting requirements.

4. Withholding of Funds

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet or ODOT hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Discrimination Prohibited/Compliance with Laws

- A. Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.
- B. Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

6. Independent Contractor/Indemnification

- A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the negligent acts or omissions of Subrecipient, its officers, directors, employees, or agents under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.

- B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the negligent acts or omissions of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- i. Bodily injury or death to any person;
 - ii. Property damage to any personal or real property owned by anyone;
 - iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - iv. Infringement of any intellectual property or other third party rights;
 - v. Discharge or causing the discharge of any hazardous or polluting substance; and
 - vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitee Consent - Subrecipient shall not defend any claim in the name of TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

7. Vehicle/ Operator Requirements

- A. Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry

16 or more passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

- B. Subrecipient shall perform criminal, Department of Motor Vehicles and employment background checks as part of the eligibility requirements for all drivers.
- C. Subrecipient shall only let approved drivers transport customers or drive Ride Connection network vehicles.

8. Funding

- A. No more than monthly, Ride Connection shall reimburse Subrecipient for costs associated with activities outlined in Exhibit A. Reimbursement requests will only be paid when actual costs have been incurred and not beforehand.

Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

- B. The maximum funding to be disbursed to Subrecipient under this Agreement is **\$5,803**
- C. Subrecipient shall document eligible use TriMet general funds in accordance with this Agreement.
- D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at accountspayable@rideconnection.org.
- E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

9. Term

This Agreement shall be in effect from 7/1/2019 through 6/30/2020, unless the Agreement is terminated earlier as provided in this Agreement.

10. Communications

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

Ride Connection:	Subrecipient:
Scott Gates	Stefanie Reid-Danielson
Ride Connection	Clackamas County
9955 NE Glisan St.	2051 Kaen Rd, Rm 135
Portland, OR 97220	Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

11. Termination for Default

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

- 1) Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- 2) Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- 3) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
- 4) Subrecipient fails to follow procedures set forth in the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>);
- 5) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
- 6) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- 7) Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
- 8) Subrecipient may terminate the Agreement, in whole or in part, upon 30 days written notice to Ride Connection.

B. Subrecipient may terminate this Agreement in the event Subrecipient fails to receive

expenditure authority sufficient to allow Subrecipient, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that Subrecipient can no longer perform under the Agreement. The termination of this Agreement shall not prejudice any rights or obligations accrued to either party prior to termination.

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

12. Assignment/Subcontracts

Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

13. Dispute Resolution

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

14. Claims, Notice

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

15. Confidential Information

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

16. Governing Law

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

17. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 13 (Dispute Resolution); 15 (Confidential Information); 16 Governing Law, 17 (Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

18. Entire Agreement/Authority

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

19. Agreement Documents

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

- The rest of this page is intentionally left blank. -

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

Ride Connection, Inc.

Signature

Printed Name

Title

Date

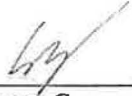
CLACKAMAS COUNTY

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

By: _____
Richard Swift
Health, Housing & Human Services Dept.

Date

Approved as to Form:

By:  _____ 12/19/2019
County Counsel

January 09, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #2 to the Intergovernmental Agreements with
Clackamas Fire District #1, City of Lake Oswego and Tualatin Valley Fire & Rescue District
for Advanced Life Support Emergency Medical System Integration.

Purpose/Outcomes	Extends the current Agreement as additional time is needed to negotiate new Agreement that assures elements of the newly adopted EMS Strategic Plan is incorporated. Increase payment by 2% as outlined in the American Medical Response Ambulance Service Agreement.
Dollar Amount and Fiscal Impact	No County general funds are involved. Each agency receives a share of the funds provided to Participating Providers for providing medical first- response services within specified response times.
Funding Source	Funds for this purpose are received by the County from the franchised ambulance provider based upon increased efficiency as provided for in the current agreement for ambulance services.
Duration	Effective January 1, 23020 and terminates on December 31, 2020
Previous Board Action	Board approved original Agreement on April, 24, 2014, Agenda 042414-A4, April 25, 2019, Agenda 042519-A2
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Counsel Review	County Counsel has reviewed and approved this document on December 19, 2019
Contact Person	Richard Swift, Interim Public Health Director , 503-650-5694 or Philip Mason-Joyner , 503-742-5956
Contract No.	6346-02, 6347-02, 6348-02

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #02 to the Intergovernmental Agreement with Clackamas County Fire District #1, Lake Oswego Fire Department, and Tualatin Valley Fire & Rescue District

The County's Ambulance Service Plan, adopted July 12, 2012, encourages partnerships in the emergency medical services system. Intergovernmental Agreements (IGAs) are currently in place between the County and three fire service agencies - Clackamas County Fire District #1, Lake Oswego Fire Department, and Tualatin Valley Fire & Rescue District. These agreements commit each agency to meet response time standards in providing emergency medical services to the public as established in the Ambulance Service Plan. Meeting these response times enables the franchised ambulance provider, American Medical Response NW (AMR), to reduce the number of staffed ambulances because it can rely on the fire agency response commitment.

The reduction in ambulances results in savings which AMR passes to the County. The savings are then distributed to the fire agencies in accordance with the terms of the IGA(s).

This cooperative relationship is referred to as "Integration" of advanced life support (ALS) services. These IGAs all terminate on December 31, 2019, unless extended by mutual agreement of the parties.

Amendment #2 extends the Agreement and adds a 2% increase to the fire agencies as outlined in the AMR Agreement. This Amendment is effective January 1, 2020 and continues through December 31, 2020.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the Intergovernmental Agreements with Clackamas Fire District #1, City of Lake Oswego and Tualatin Valley Fire & Rescue District for Advanced Life Support Emergency Medical System Integration.

Respectfully submitted,

 HHS Deputy / FOR

Richard Swift, Director
Health, Housing, and Human Services

**AMENDMENT #02 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CLACKAMAS FIRE DISTRICT #1**

Agreement #6346-02

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Clackamas Fire District #1 ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date, increase the monthly compensation, and change the payment method;

WHEREAS, the parties agree to the increase the current compensation amount by 2% during the extension;

WHEREAS, the parties agree to the new payment method and the Agency is now required to submit monthly invoices during the extension;

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Agreement as follows:

1. **Term.** Section 11, Term of Agreement, is hereby amended to extend the term of the Agreement to December 31, 2020. The parties have performed under the Agreement following expiration of the original term, and hereby approve and ratify work performed as of the date of this Amendment.
2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to current compensation amount of \$11,130.34. per month.
3. **Compensation Section 3.1.1** all parties agree to the **Method of Payment**. To receive payment, AGENCY shall submit invoices as follows:

AGENCY shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract # 6346, dates of service,

number of hours billed and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate AGENCY name and contract # 6346 in the subject of the e-mail.


Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

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

Clackamas County

Clackamas Fire District #1

Chair, Board of County Commissioners



By: Fred Charlton
Its: Fire Chief

Date

12-23-2019

Date

**AMENDMENT #02 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CLACKAMAS FIRE DISTRICT #1**

Agreement #6346-02

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Clackamas Fire District #1 ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date, increase the monthly compensation, and change the payment method;

WHEREAS, the parties agree to increase the current compensation amount by 2% during the extension;

WHEREAS, the parties agree to the new payment method and the Agency is now required to submit monthly invoices during the extension;

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2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to current compensation amount of \$11,130.34. per month.
3. **Compensation Section 3.1.1** all parties agree to the **Method of Payment**. To receive payment, AGENCY shall submit invoices as follows:

AGENCY shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract # 6346, dates of service,

number of hours billed and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate AGENCY name and contract # 6346 in the subject of the e-mail.


Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

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

Clackamas County

Clackamas Fire District #1

Chair, Board of County Commissioners



By: Fred Charlton
Its: Fire Chief

Date

12-23-2019

Date

**AMENDMENT #02 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CITY OF LAKE OSWEGO**

Agreement #6347-02

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and City of Lake Oswego ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date, increase the monthly compensation, and change the payment method;

WHEREAS, the parties agree to increase the current compensation amount by 2% during the extension;

WHEREAS, the parties agree to the new payment method and the Agency is now required to submit monthly invoices during the extension;

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Agreement as follows:

1. **Term.** Section 11, Term of Agreement, is hereby amended to extend the term of the Agreement to December 31, 2020. The parties have performed under the Agreement following expiration of the original term, and hereby approve and ratify work performed as of the date of this Amendment.
2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to increase compensation amount to \$3,339.10. per month.
3. **Compensation Section 3.1.1** all parties agree to the **Method of Payment**. To receive payment, AGENCY shall submit invoices as follows:

AGENCY shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract # 6347, dates of service, number of hours billed and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate AGENCY name and contract # 6347 in the subject of the e-mail.

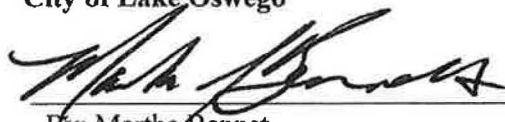
Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

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

Clackamas County

City of Lake Oswego

Chair, Board of County Commissioners



By: Martha Bennet
Its: City Manager

Date

12/20/19

Date

**AMENDMENT #02 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CITY OF LAKE OSWEGO**

Agreement #6347-02

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and City of Lake Oswego ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date, increase the monthly compensation, and change the payment method;

WHEREAS, the parties agree to increase the current compensation amount by 2% during the extension;

WHEREAS, the parties agree to the new payment method and the Agency is now required to submit monthly invoices during the extension;

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Agreement as follows:

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2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to increase compensation amount to \$3,339.10. per month.
3. **Compensation Section 3.1.1** all parties agree to the **Method of Payment**. To receive payment, AGENCY shall submit invoices as follows:

AGENCY shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract # 6347, dates of service, number of hours billed and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate AGENCY name and contract # 6347 in the subject of the e-mail.

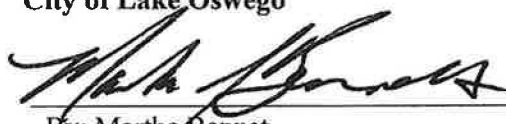
Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

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

Clackamas County

City of Lake Oswego

Chair, Board of County Commissioners



By: Martha Bennet
Its: City Manager

Date

12/20/19

Date

**AMENDMENT #02 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND TUALATIN VALLEY FIRE & RESCUE**

Agreement #6348-02

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Tualatin Valley Fire & Rescue ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date, increase the monthly compensation, and change the payment method;

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NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Agreement as follows:

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2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to current compensation amount of \$4,081.13. per month.
3. **Compensation Section 3.1.1** all parties agree to the **Method of Payment**. To receive payment, AGENCY shall submit invoices as follows:

AGENCY shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract # 6348, dates of service,

Tualatin Valley Fire & Rescue

Intergovernmental Agreement #6348 – Amendment # 2

Page 2 of 2

number of hours billed and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate AGENCY name and contract # 6348 in the subject of the e-mail.


Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

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

Clackamas County

Tualatin Valley Fire & Rescue

Chair, Board of County Commissioners



By: Deric Weiss
Its: Fire Chief

Date

12/23/19

Date

**AMENDMENT #02 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND TUALATIN VALLEY FIRE & RESCUE**

Agreement #6348-02

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Tualatin Valley Fire & Rescue ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

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3. **Compensation Section 3.1.1** all parties agree to the **Method of Payment**. To receive payment, AGENCY shall submit invoices as follows:

AGENCY shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract # 6348, dates of service,

number of hours billed and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate AGENCY name and contract # 6348 in the subject of the e-mail.


Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

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

Clackamas County

Tualatin Valley Fire & Rescue

Chair, Board of County Commissioners



By: Deric Weiss
Its: Fire Chief

Date

12/23/19

Date

January 09, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #06 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority for Operation as the Local Public Health Authority for Clackamas County

Purpose/Outcomes	Amendment will provide funding to increase planning for Prescription Drug Overdose Prevention (PDOP) by \$41,667.
Dollar Amount and Fiscal Impact	Contract is increased by \$41,667 bringing the contract maximum value to \$3,527,067.
Funding Source	Funding through the State - No County General Funds are involved.
Duration	Effective upon signature and terminates on June 30, 2021
Previous Board Action	The Board previously reviewed and approved this agreement on June 20, 2019, Agenda item 062019-A1, September 5, 2019, Agenda item 090519-A1, September 26, 2019, Agenda item 092619-A5, October 24, 2019, Agenda item 102419-A5, October 31, 2019, Agenda item 103119-A3, December 12, 2019, Agenda item 121219-A2
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on December 19, 2019
Contact Person	Richard Swift, Interim Public Health Director – (503) 655-8479
Contract No.	9329-06

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #06 to the Intergovernmental Agreement with State of Oregon, Oregon Health Authority. Amendment #06 increased the Agreement by \$41,667. bringing the maximum contract value to \$3,527,067.

This contract is effective upon signature and continues through June 30, 2021.

RECOMMENDATION:

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

Respectfully submitted,



H3S Deputy / FOR

Richard Swift, Director
Health, Housing, and Human Services

Agreement #159803



**SIXTH AMENDMENT TO OREGON HEALTH AUTHORITY
2019-2021 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

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

This Sixth Amendment to Oregon Health Authority 2019-2021 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2019, (as amended the “Agreement”), is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Clackamas County, (“LPHA”), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County.

RECITALS

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2020 (FY20) Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows

AGREEMENT

- Exhibit A “Definitions”, Section 18 “Program Element” is amended to replace or add the Program Element titles and funding source identifiers as follows:

PE NUMBER AND TITLE • SUB-ELEMENT(S)	FUND TYPE	FEDERAL AGENCY/ GRANT TITLE	CFDA#	HIPAA RELATED (Y/N)	SUB-RECIPIENT (Y/N)
PE 07 HIV Prevention Services	GF/FF	CDC/HIV Prevention Activities Health Department Based	93.940	N	Y
PE 27 Prescription Drug Overdose Prevention (PDOP) • PE 27-01 Prescription Drug Overdose (PDO)	FF	CDC/Injury Prevention and Control Research and State and Community Based Programs	93.136	N	Y
• PE 27-03 Gap Funding (OSTR/PDO)	FF	CDC/Injury Prevention and Control Research and State and Community Based Programs	93.136	N	Y
• PE 27-04 Naloxone Project (SOR)	FF	SAMHSA/Opioid STR	93.788	N	Y
• PE 27-05 Bridge Funding (PDO/SOR)	FF	SAMHSA/Opioid STR	93.788	N	Y
• PE 27-06 PDOP Planning	FF	CDC/Injury Prevention and Control Research and State and Community Based Programs	93.136	N	Y

2. Section 1 of Exhibit C entitled "Financial Assistance Award" of the Agreement for FY20 is hereby superseded and replaced in its entirety by Attachment A attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C.
3. Exhibit J "Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200" is amended to add to the federal award information datasheet as set forth in Attachment B, attached hereto and incorporated herein by this reference.
4. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 2 of Exhibit E of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
5. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
6. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
7. The parties expressly ratify the Agreement as herein amended.
8. This Amendment may be executed in any number of 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 this Amendment so executed shall constitute an original.
9. This Amendment becomes effective on the date of the last signature below.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

10. Signatures.

By: _____
 Name: /for/ Lillian Shirley, BSN, MPH, MPA
 Title: Public Health Director
 Date: _____

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: _____
 Name: Richard Swift
 Title: Director, Health, Housing and Human Services
 Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Approved by Steven Marlowe, Senior Assistant Attorney General on July 26, 2019. Copy of emailed approval on file at OHA, OC&P.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

By: _____
 Name: Derrick Clark (or designee)
 Title: Program Support Manager
 Date: _____

**Attachment A
Financial Assistance Award (FY20)**

State of Oregon Oregon Health Authority Public Health Division			Page 1 of 4	
1) Grantee Name: Clackamas County		2) Issue Date December 09, 2019	This Action AMENDMENT FY 2020	
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2019 Through June 30, 2020		
4) OHA Public Health Funds Approved				
Program	Award Balance	Increase/ (Decrease)	New Award Bal	
PE01-01 State Support for Public Health	506,554	0	506,554	
PE02 Cities Readiness Initiative	37,499	0	37,499	
PE07 HIV Prevention Services	128,846	0	128,846	
PE12 Public Health Emergency Preparedness and Response (PHEP)	171,924	0	171,924	
PE13-01 Tobacco Prevention and Education Program (TPEP)	292,768	0	292,768	
PE27-03 PDOP - Gap Funding (OSTR/PDO)	28,497	0	28,497	
PE27-04 PDOP Naloxone Project (SOR)	48,753	0	48,753	
PE27-05 PDOP Bridge (PDO/SOR)	41,665	0	41,665	
PE27-06 PDOP Planning	0	41,667	41,667	
PE40-01 WIC NSA: July - September	188,990	0	188,990	
PE40-02 WIC NSA: October - June	566,969	0	566,969	
PE40-03 BFPC: July - September	17,325	0	17,325	
PE40-04 BFPC: October - June	51,975	0	51,975	
PE40-05 Farmer's Market	2,699	0	2,699	
PE42-03 MCAH Perinatal General Funds & Title XIX	11,060	0	11,060	
PE42-04 MCAH Babies First! General Funds	35,342	0	35,342	
PE42-06 MCAH General Funds & Title XIX	20,752	0	20,752	
PE42-07 MCAH Title V (July-Sept)	29,663	0	29,663	

State of Oregon Oregon Health Authority Public Health Division			Page 2 of 4	
1) Grantee Name: Clackamas County		2) Issue Date December 09, 2019	This Action AMENDMENT FY 2020	
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2019 Through June 30, 2020		
4) OHA Public Health Funds Approved				
Program	Award Balance	Increase/ (Decrease)	New Award Bal	
PE42-08 MCAH Title V (Oct-June)	88,988	0	88,988	
PE42-09 MCAH Oregon Mothers Care Title V (July-Sept)	2,283	0	2,283	
PE42-10 MCAH Oregon Mothers Care Title V (Oct-June)	6,849	0	6,849	
PE43 Public Health Practice (PHP) - Immunization Services (Vendors)	92,462	0	92,462	
PE43-03 Hepatitis A Outbreak Prevention Project (HOPP)	29,533	0	29,533	
PE43-04 HOPP Incentives (Hepatitis A Outbreak Prevention Project)	1,000	0	1,000	
PE44-01 SBHC Base	300,000	0	300,000	
PE44-02 SBHC - Mental Health Expansion	376,500	0	376,500	
PE46-02 RH Community Participation & Assurance of Access (July - Mar)	0	0	0	
PE46-03 RH Community Participation & Access (State Funds)	41,893	0	41,893	
PE46-04 RH Community Participation & Access Federal Funds (July-Mar)	1,638	0	1,638	
PE50 Safe Drinking Water (SDW) Program (Vendors)	147,475	0	147,475	
PE51-01 LPHA Leadership, Governance and Program Implementation	215,498	0	215,498	
	3,485,400	41,667	3,527,067	
5) Foot Notes:				
PE01-01	1	Initial SFY20: Award is estimated for July 1-September 30, 2019 and will be paid out at 1/3rd. Awards will be amended pending approval of the State budget.		
PE01-01	2	8/2019: SFY20 Award amended for increase for July 1, 2019-June 30, 2020. Previous footnotes are void and replaced by this one.		
PE13-01	1	Initial SFY20: Award is 3 months (July-September 2019) of bridge TPEP funding and will be paid out at 1/3rd		
PE13-01	2	8/2019: Award is 5 months (July-November 2019) of bridge TPEP funding and will be paid out at 1/5th, all previous footnotes are void and replaced by this one.		
PE40-05	1	7/2019: Funding available SFY2020 July - December 2019		
PE42-07	1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.		

State of Oregon Oregon Health Authority Public Health Division			Page 3 of 4
1) Grantee Name: Clackamas County		2) Issue Date December 09, 2019	This Action AMENDMENT FY 2020
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2019 Through June 30, 2020	
4) OHA Public Health Funds Approved			
Program	Award Balance	Increase/ (Decrease)	New Award Bal
PE42-08 1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.		
PE42-09 1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.		
PE42-10 1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.		
PE43-03 1	10/2019: Funding is for Oct. 1, 2019 – June 30, 2020 – Funds to be used on Hepatitis A Outbreak Prevention.		
PE43-04 1	10/2019: Funding is for Oct. 1, 2019 – June 30, 2020 – Funds to be used on Hepatitis A Outbreak Prevention Incentives.		
PE46-03 1	7/2019: Funding is for July 15, 2019 - June 30, 2020		
PE46-04 1	7/2019: Funding for July 1-14, 2019		
PE51-01 1	9/2019: Funding is for period of October 1, 2019-June 30, 2020		
6) Comments:			
PE02	7/2019: Adding program element as result of Washington County relinquishing CRI lead agency status		
PE07	Initial SFY20: \$39,628 is for the period of 7/1/19 to 12/31/19 and must be spent by 12/31/19.		
PE07	7/2019: Funding period 07/01/19 - 12/31/19 - \$64,422. A minimum of \$39,627 must be spent by 12/31/19. Funding period 01/01/20 - 06/30/20 - \$64,422		
PE12	11/2019: \$1,651 award increase for scholarship funding for Oregon Prepared or OR-Epi		
PE13-01	8/2019: Amending to add 2 months of funding (total award is now for July-November 2019)		
PE13-01	11/2019: Amending award total of \$292,768 for SFY20 (July 2019-June2020) All previous footnotes and comments are void and replaced by this one.		
PE27-03	Initial SFY20: \$28,496.83 in FY20 is available 7/1/19-8/31/19 ONLY. This is the balance of Gap Funding from PDO Year 4 for OSTR funded LPHA's.		
PE27-04	9/2019: \$48,753 in SFY20. Funding Period 10/1/19-6/30/20.		
PE27-05	8/2019: \$41,665 in FY20 Available 9/1/19-1/31/20.		
PE27-06	12/2019: Award of \$41,666.65 in SFY20 Available 2/1/20-6/30/20		
PE40-01	Initial SFY20: spend \$37,798 Nutrition Education, \$7,618 Breastfeeding Promotion by 9/30/19		
PE40-02	Initial SFY20: spend \$113,394 Nutrition Education, \$22,855 Breastfeeding Promotion by 6/30/20		
PE44-02	7/2019: MH Expansion funding increase		
PE46-02	7/2019: Reducing award to \$0 and re-allocating award to PE46-03 and PE46-04		
PE46-03	7/2019: State Funding for July 15, 2019 – June 30, 2020		
PE46-04	7/2019: Federal Funding for July 1 – July 14, 2019 only		

State of Oregon Oregon Health Authority Public Health Division		Page 4 of 4	
1) Grantee Name: Clackamas County Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		2) Issue Date December 09, 2019	This Action AMENDMENT FY 2020
		3) Award Period From July 1, 2019 Through June 30, 2020	
4) OHA Public Health Funds Approved			
Program	Award Balance	Increase/ (Decrease)	New Award Bal
7) Capital outlay Requested in this Action: Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.			
PROGRAM	ITEM DESCRIPTION	COST	PROG APPROV

Attachment B
Information required by CFR Subtitle B with guidance at 2 CFR Part 200

PE07: HIV Prevention Services

Funding Information Table

Federal Award Identification Number (FAIN):	NU62PS924543	NU62PS924543	State Funds
Federal Award Date:	12/11/2018	12/6/2019	
Performance Period:	01/01/2019-12/31/2019	01/01/20-12/31/20	
Federal Awarding Agency:	CDC	CDC	
CFDA Number:	93.940'	93.940'	
CFDA Name:	HIV Prevention Activities, Health Department Based	HIV Prevention Activities, Health Department Based	
Total Federal Award:	\$2,500,170	\$625,043	
Project Description:	Integrated HIV Prevention & Surveillance	Integrated HIV Prevention & Surveillance	
Awarding Official:	Arthur Lusby	Arthur Lusby	
Indirect Cost Rate:	17.86%	17.86%	
Research and Development (Y/N):	No	No	
PCA:	53241	TBD	53313
INDEX:	50403	50403	50403

Agency/Contractor	DUNS	Amount	Amount	Amount	Total FY 2020
Clackamas	96992656	\$39,628	\$39,628	\$49,590	\$128,846

PE27-06: PDOP Planning

Funding Information Table

Federal Award Identification Number (FAIN):	6 NU17CE925018-01-01
Federal Award Date:	11/13/2019
Performance Period:	09/01/2019-08/31/2020
Federal Awarding Agency:	CDC
CFDA Number:	93.136
CFDA Name:	Injury Prevention and Control Research and State and Community Based Programs
Total Federal Award:	\$3,034,987
Project Description:	Oregon Overdose Data To Action (OD2A)
Awarding Official:	Barbara (Rene) Benyard
Indirect Cost Rate:	14.90%
Research and Development (Y/N):	No
PCA:	52852
INDEX:	50339

Agency/Contractor	DUNS	Amount
Clackamas	96992656	\$41,667

January 9, 2020

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Personal Services Contract with
Cascadia Behavioral Healthcare for Crisis Respite Services

Purpose/Outcomes	Provides crisis respite services and outpatient mental health services for Clackamas County clients.
Dollar Amount and Fiscal Impact	Contract maximum payment is \$457,084.00.
Funding Source	No County General Funds are involved. State of Oregon, Oregon Health Plan (OHP) and Community Mental Health Plan (CMHP) funds.
Duration	Effective July 1, 2019 and terminates on June 30, 2020
Previous Board Action	None
Counsel Review	Contract reviewed and approved November 13, 2019.
Strategic Plan Alignment	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division 503-742-5305
Contract No.	9374

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of an Agency Service Contract with Cascadia Behavioral Healthcare for crisis respite services. The Crisis Respite Program in Washington County is a five-bed facility developed in partnership with Clackamas County to provide support, medication dispensing, and close monitoring for voluntary clients who require short-term, intensive support to prevent further decompensation or to divert from a higher level of care. Clackamas County will fund two beds and Washington County will fund three beds. Additionally, Clackamas County will fund one (1) bed at Cascadia’s Rockwood facility through December 31, 2019. The crisis respite program shall provides a safe environment with 24/7 awake staff. Transition planning and clinical services will be provided by the client’s treatment provider or respective County’s Intensive Transition Team (ITT) Program. Such services are provided to persons enrolled in services through Clackamas County Behavioral Health Division.

The Crisis Respite program was developed in collaboration with Washington County, with Washington County performing the procurement for these services.

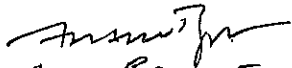
This Contract is effective July 1, 2019 and continues through June 30, 2020. Maximum compensation is \$457,084.00. County Counsel reviewed and approved this Contract on November 13, 2019.

This Contract is retroactive due to a delayed receipt of funding from the State, and further delays caused by the negotiations with the Contractor, Washington and Multnomah counties and Care Oregon due to the changes in the State's coordinated care system. The Contractor has provided ongoing critical services for Clackamas County residents, ensuring there is no gap in service.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift
Richard Swift, Director
Health, Housing & Human Services Department



**CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract #9374**

This Personal Services Contract (this “Contract”) is entered into between **Cascadia Behavioral Healthcare, Inc.** (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”) on behalf of its Health Housing and Human Services Department, Behavioral Health Division.

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, 2020**.
2. **Scope of Work.** Contractor shall provide the following personal services: **Adult Respite Services** (“Work”), further described in **Exhibits B and C**.
3. **Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed **four hundred fifty-seven thousand eighty-four dollars (\$457,084.00)**, for accomplishing the Work required by this Contract. Consideration rates are on a fixed fee basis in accordance with the rates and costs specified in **Exhibit D**. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in **Exhibit D**.
4. **Invoices and Payments.** Contractor shall submit monthly invoices for Work performed, as more fully described in **Exhibit D**.
5. **Contract Documents.** This Contract consists of the following selected documents, which are attached and incorporated by reference herein:

- Contract
- Exhibit A – Definitions
- Exhibit B – Scope of Work
- Exhibit C – CMHP Service Element
- Exhibit D – Compensation
- Exhibit E – Insurance
- Exhibit F – CMHP and OHP Required Federal Terms and Conditions
- Exhibit G – CMHP Required Provider Contract Provisions
- Exhibit H – Business Associate Agreement (BAA)
- Exhibit I – Qualified Service Organization Business Associate Agreement (QSOBAA)

6. Contractor and County Contact Information

<p>Cascadia Behavioral Healthcare, Inc. Address: PO Box 8459 Portland, OR 97207 Phone: 503-963-7766 Email: Contracts@cascadiabhc.org</p>	<p>Clackamas County – Behavioral Health Division Address: 2051 Kaen Road, Suite 154 Oregon, City, OR 97045 Phone: 503-742-5335 Email: BHContracts@clackamas.us</p>
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Cascadia Behavioral Healthcare, Inc. – Personal Services Contract (CMHP & OHP) #9374

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. Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by applicable State and Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.
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.

Contractor shall indemnify, hold harmless and defend the State of Oregon, 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.

- 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 in **Exhibit E**.
- 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 21 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. Any communication or notice 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. If this Contract is terminated prior to completion, and the County is not in default, County, in addition to any other rights provided by this Contract, may require the Contractor to transfer and deliver all partially completed Work Product, reports or documentation that the Contractor has specifically developed or specifically acquired for the performance of this Contract.

- 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 a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 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, 11, 13, 14, 16 and 21, 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

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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.** A) This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time, the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County. Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. (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 termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 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.

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- 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. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with the Contract as such claim becomes due, the proper officer representing Clackamas 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 Contractor by reason of the Contract.
- f. 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.
- g. 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. ABUSE REPORTING. Contractor shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 493-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if Contractor were a mandatory abuse reporter. If Contractor is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. Contractor shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

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

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

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

undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

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

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

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

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

- 29. CRIMINAL BACKGROUND CHECK REQUIREMENTS.** Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.
- 30. FURTHER ASSURANCES.** Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.
- 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

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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.

[Signature page follows]

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval for Amendment #7 to Agreement #7642 to a Provider Agreement
with CareOregon for Medicare Quality and Pharmacy Metric Services
to members enrolled with the Oregon Health Plan (OHP)**

Purpose/Outcomes	Provides Clackamas Health Centers Division (CHCD) with a Medicare Quality and Pharmacy Metrics Bonus for services.
Dollar Amount and Fiscal Impact	CHCD is eligible to receive payment for services furnished to assigned members from the CareOregon Medicare Advantage Plan. This is a no maximum agreement. No County General Funds are involved. No matching funds required.
Funding Source	CareOregon (Medicare Advantage Plan Payor)
Duration	Effective upon execution and no expiration.
Previous Board Action	The Board last reviewed and approved this contract on August 8, 2019, agenda item A3.
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
Counsel Review	County Counsel has reviewed and approved this document. It was approved on December 18, 2019.
Contact Person	Deborah Cockrell 503-742-5495
Contract No.	7642_07

BACKGROUND:

The Clackamas Health Centers Division (CHCD) of the Health, Housing and Human Services Department requests the approval of Amendment #7 to Agreement #7642 to a Provider agreement with CareOregon for the purpose of providing healthcare services to CareOregon Medicaid Advantage Plan members.

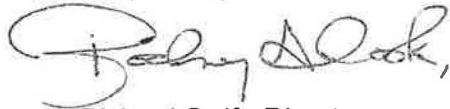
This agreement will establish a schedule of payments for professional services rendered by Providers to Medicare Advantage Plan recipients under this Agreement. This is incentive for providers to perform additional efforts towards achieving performance of specific Medicare Stars measurements. Medicare Star Clinical Measures are for services up to and including: Breast Cancer, Colorectal Cancer, Diabetes Eye Care, Diabetes Kidney Care, Diabetes Blood Sugar Control Care, Older Adults Care (Medication Review, Functional Status Assessment, and Pain Assessment). CareOregon will use formulas and other methodologies set forth in this Agreement.

This is a revenue contract for CHCD. The patients are being seen at CHCD's Beavercreek, Sunnyside, and Sandy Health Clinics serving the community. The total amount of the agreement is unknown because the number of authorized patients cannot be projected with certainty. No County General Funds are involved. The Amendment #7 is effective January 1, 2020, and will continue until terminated.

RECOMMENDATION:

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

Respectfully submitted,

 *Richard Swift*, H3S DEPUTY / FOL

Richard Swift, Director
Health, Housing, and Human Services

CareOregon, Inc.
Medicare Quality and Pharmacy Metrics Bonus
Amendment #7

#7642_07

Project: Medicare Quality and Pharmacy Metric Bonus
Provider Contract: 9592, Amendment #7
Provider Contact: Deborah Cockrell
E-mail: DCockrell@co.clackamas.or.us

CareOregon Agreement Number: 12-0101G
CareOregon Contact: Jennifer Hawkins
E-mail: hawkinsj@careoregon.org

This Amendment Number 7 (Amendment) is entered into between CareOregon, Inc. (CareOregon) and Clackamas County acting by and through its Health, Housing and Human Services Department, Health Center Division (Provider) to add a Medicare Quality and Pharmacy Metrics Bonus for Services performed under this Agreement for the period December 1, 2019 through June 30, 2021, and shall become part of the contract entered into between the parties, as amended. Except as amended hereby, all other terms and conditions of the contract remain in full force and effect.

I. Recitals:

- A. CareOregon is contracted with the Centers for Medicare and Medicaid Services to operate as a Medicare Advantage Plan Payor.

II. Project Objectives:

The goals of this initiative are to:

- A. Improve population health.
- B. Improve performance of selected clinical quality metrics

III. Project Description:

The Medicare Quality and Pharmacy Metric Bonus project is for provider organizations having assigned members from the CareOregon Medicare Advantage Plan, and offers an incentive for providers to perform additional efforts or direct additional resources towards achieving improvement on provider's performance of specific Medicare Stars measurements. The selected target areas are listed below and have been historically challenging to improve. Interventions must align with clinical best practices, guideline recommendations, and target the CareOregon Medicare Advantage member population.

Funding under this Agreement will be provided on a per member service basis for achieving improvements in the following target clinical measures and pharmacy intervention measures for the 2019 calendar year:

Medicare Star Clinical Measures:

1. Breast Cancer
2. Colorectal Cancer
3. Diabetes Care-Eye Exam
4. Diabetes Care-Kidney Disease Monitoring
5. Diabetes Care-Blood Sugar Controlled
6. Care for Older Adults-Medication Review
7. Care for Older Adults-Functional Status Assessment

8. Care for Older Adults-Pain Assessment

Provider clinics that have qualified to participate in the clinical measure bonus project component are:

1. Clackamas County Beaver Creek Clinic
2. Sunnyside Health Clinic
3. Sandy Health Clinic

Pharmacy Intervention Measures:

Provider organizations with embedded pharmacists have already received a list of members identified as needing one or more of the following targeted interventions by the end of calendar year 2019:

1. Adding statin drug therapy for a member with diabetes
2. Converting a member to an 84-90 day supply of an oral diabetes drug, Renin-Angiotensin System Antagonists (RASAs) and/or statins
3. Ensuring another prescription refill of an oral diabetes drug, RASA, and/or statin for members who require one additional refill to be compliant with the adherence measure

All clinics in the Provider's system with assigned CareOregon members have qualified to participate in the pharmacy measure bonus project component.

Providers and CareOregon will mutually agree upon updates to the Agreement for calendar year 2020 no later than March 31, 2020. CareOregon will develop revised target measures, the timing of CareOregon provision of pharmacy member lists, and the per member service rates, and amend this Agreement accordingly.

IV. Terms:

- A. Provider agrees to implement the planned clinical interventions during the service period of December 1, 2019 to December 31, 2019.
- B. Provider agrees to file medical claims to CareOregon within a 90 (ninety) day claims close out period for CareOregon Medicare Advantage members receiving the clinical care gap services as defined in Exhibit A by **March 31, 2020** for clinical services provided on service dates from January 1, 2019 to December 31, 2019.
- C. Provider agrees to implement the planned pharmacy interventions during the service period of November 22, 2019 to December 31, 2019.
- D. Provider agrees to assess patients for intervention appropriateness, write prescriptions for applicable interventions, and ensure that prescriptions are picked up by patients for the service period of November 22, 2019 to December 31, 2019 by **December 31, 2019**.
- E. Provider agrees to file claims related to the pharmacy interventions by **December 31, 2019**.
- F. CareOregon agrees to validate claims history data for appropriate services and measures with the services date up through December 31, 2019 by **May 31, 2020**.
- G. Provider agrees to work with CareOregon on Agreement terms applicable to the calendar year 2020 to meet the target date of March 31, 2020.
- H. Provider agrees to participate in technical assistance with CareOregon as related to this project.
- I. Both parties agree that this funding is for the period specified above only and does not imply or guarantee ongoing funding.
- J. Either party can terminate this Agreement with 30 days written notice. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

V. Payment:

- A. CareOregon will calculate and pay each Provider system for the combination of the following for calendar year 2019:
 - a. Medicare Star Clinical Measures
 - i. A **\$25.00 per member for each measure gap closed** by Provider as defined in Exhibit A for the target services provided during the period of January 1, 2019 through and including November 20, 2019.
 - ii. A **\$50.00 per member for each measure gap closed** by Provider as defined in Exhibit A for the target services provided during the period of November 21, 2019 through and including December 31, 2019
 - b. Pharmacy Intervention Measures
 - i. A **\$100.00** payment amount per member for each measure gap closed by Provider as defined in Section III for the target services provided during the period of November 21, 2019 through and including December 31, 2019.
- B. Each Provider system will receive at minimum a payment amount of **\$30,000.00**.
- C. CareOregon will remit Payment as described in Section V.A. and V.B. above no later than **June 30, 2020**, contingent upon:
 - a. All pharmacy claims for target member population have been filed by December 31, 2019.
 - b. A ninety (90) day claims closeout period wherein all medical claims through the ending service date of December 31, 2019 are filed by March 31, 2020.
 - c. Final payment calculations will be based on data verified by claims documentation.
- D. Payment terms will be reviewed and updated by March 31, 2020 for calendar year 2020, and the Agreement will be amended accordingly.

VI. General Provisions:

- A. Should Provider's Health Care Services Agreement with CareOregon terminate, this funding will cease immediately upon written notification of termination and Provider agrees to refund any paid amounts prorated from the date of termination to the end of the period outlined above.
- B. Provider agrees that the Provider Contact named above is responsible for all aspects of the Agreement, including monitoring progress and performance, obtaining all necessary data and information, and notifying CareOregon of any significant obstacles or delays. Provider will notify CareOregon if the Provider Contact changes.
- C. Both parties agree to seek written approval for, and provide a copy of, any news releases or any other external communication related to the Agreement. Email approval by CareOregon or the Provider Contact will suffice as written approval.
- D. CareOregon can terminate the agreement immediately if the safety or health of a member or staff person is threatened. Any remaining balance of the payment disbursed under this agreement at the time of immediate termination will be returned to CareOregon.
- E. Provider agrees to safeguard, use and disclose the protected health information of CareOregon members as it applies to activities related to this program in accordance with the Health Insurance Portability and Accountability Act (HIPAA), and other applicable federal and state confidentiality requirements.

F. Provider is not eligible to participate or receive funding associated with this Letter of Agreement if Provider is placed on the Tier Monitoring System by CareOregon's Peer Review Committee or has documented contract and/or compliance issues. All funding associated with this Letter of Agreement will be discontinued until Provider is removed from the CareOregon Tier Monitoring System or has resolved compliance issue to CareOregon's satisfaction. Discontinued funding will not be disbursed unless agreed upon by the parties for work performed during the compliance period.

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

Agreed to on behalf of Clackamas County of Commissioners, signing on behalf by:

Agreed to on behalf of CareOregon, Inc.:

Signature

Signature

Name: Richard Swift

Name: Eric C. Hunter

Title: Director

Title: Chief Executive Officer

Date: _____

Date: _____

Exhibit A

Measure Specifications

I. Target Medicare Incentive Metric(s)

A. Medicare clinical measure related claims data and final payment calculation is to be based on the specifications referenced on the CareOregon Quality Metrics Toolkit link: <https://careoregon.org/providers/support/quality-metrics-toolkit>

B. Target Clinical Metrics and specifications links.

Breast Cancer Screening: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/breast-cancer-screening.pdf?sfvrsn=eee19ae1_2

Colorectal Cancer Screening: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/colorectal-cancer-screening.pdf?sfvrsn=2167c26a_6

Diabetes Eye Exam: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/diabetes-eye-exam.pdf?sfvrsn=20404dbc_2

Diabetes Kidney Disease Monitoring: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/diabetes-nephropathy-monitoring.pdf?sfvrsn=24f23269_2

Diabetes Blood Sugar: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/diabetes-hba1c-poor-control.pdf?sfvrsn=986bf338_2

Care for Older Adults, Medication Review: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/care-older-adults-medication-review.pdf?sfvrsn=11b65c81_2

Care for Older Adults, Functional Status Assessment: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/care-older-adults-functional-status-assessment.pdf?sfvrsn=9064df71_2

Care for Older Adults, Pain Assessment: https://careoregon.org/docs/default-source/providers/clinical-quality-metrics-toolkit/care-for-older-adults-pain-screening.pdf?sfvrsn=5ba74e48_4

C. Target Part D Star Measures (Statin Use in Persons with Diabetes and Medication Adherence to Diabetes Medications, Hypertension, and Cholesterol)

Medicare 2020 Part C and D Star Ratings and Technical Notes: <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovGenIn/Downloads/Star-Ratings-Technical-Notes-Oct-10-2019.pdf>