



July 1, 2021

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of an Amendment to an Intergovernmental Agreement with the  
 State of Oregon Related to Funding for a Future County Courthouse

<b>Purpose/Outcome</b>	Approval of an amendment to an intergovernmental agreement with the State of Oregon related to the planning phase for a future county courthouse.
<b>Dollar Amount and Fiscal Impact</b>	No financial impact as a result of this amendment. The only purpose of this amendment is to extend the time in which the County has to complete the benchmarks set out in the Phase I agreement.
<b>Funding Source</b>	County staff anticipates that the future county courthouse will be funded using a combination of local funds from the County's general fund and matching funds from the State of Oregon.
<b>Duration</b>	The existing Phase 1 agreement will expire upon the completion of the benchmarks described in the agreement, which County staff anticipates will occur by June 30, 2022.
<b>Previous Board Action/Review</b>	Policy Sessions: 2/14/17, 10/17/17, 6/26/18, 9/18/18, 1/29/19, 3/19/19, 6/18/19, 10/22/19, 2/18/20, 7/7/20, 1/12/21, 4/21/21, and 5/5/21. Approval of IGA and amendments: 2/14/19, 6/25/19, 6/25/20, 7/9/20
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Build public trust through good government</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Gary Barth, (503) 754-2050

**Project Background**

For over 20 years Clackamas County has been planning, building, and consolidating relevant services to the County owned Red Soils Campus in Oregon City to provide a cohesive integrated public service center for citizens. A new Courthouse facility has been the center of that master plan since its inception.

The Oregon Courthouse Capital Construction Improvement Fund (OCCCIF) provides a path to assist the County with realizing this piece of the master plan. The OCCCIF is funded through the sale of bonds, the revenue from which may only be used for capital expenditures. In 2019, the County entered into two separate agreements with the State of Oregon to facilitate the receipt of OCCCIF proceeds to assist in the planning, design and construction of the Courthouse facility.

One of the two previous intergovernmental agreements approved by the Board in 2019 relates to Phase I of the project, which the parties intend to cover project planning activities and establishes a State reimbursement to the County of up to \$1.2 million for qualifying costs. The Fiscal Year 2017-2019 fund request was approved and is being used for the current planning efforts. The source of these funds is from the State General Fund.

The Phase I Funding Agreement specifies those costs that will be eligible for reimbursement, and establishes benchmarks that define the successful completion of Phase I of the project. The date to complete the benchmarks for Phase 1 was originally July 1, 2019. In June, 2019 and in June, 2020 the parties recognized that it was not going to be possible for the county to fulfill its obligations in the agreement and the agreement was extended twice to July 1, 2021.

Since that time the County has authorized, and the Oregon Judicial Department has endorsed, the use of a public-private partnership to deliver the project. As a result of this change, both the County and State recognize that certain aspects of their existing agreements will need to be amended in order to proceed. Accordingly, the parties recognized that they will need time beyond the July 1, 2021 deadline to finalize amendments to the agreements to ensure they are consistent with the public-private partnership structure. Accordingly, the parties have agreed to amend the Phase 1 agreement to extend time in which the County has to complete its obligation to July 1, 2022.

**RECOMMENDATION**

Staff respectfully recommends the Board approve the attached amendment to the Phase 1 intergovernmental agreement with the State of Oregon.

Sincerely,

Gary Barth  
Courthouse Project Manager

## AMENDMENT NO. 3

### CLACKAMAS COUNTY COURTHOUSE PHASE I FUNDING AGREEMENT

This Amendment No. 3 (“Amendment”) to the Clackamas County Courthouse Funding Agreement – Phase I is made as of the 30<sup>th</sup> day of June, 2021 (the “Amendment Effective Date”) by and among the State of Oregon, acting by and through its Department of Administrative Services (“DAS”) and the Oregon Judicial Department (“OJD”) (together referred to as the “State”), and Clackamas County, Oregon (“County”). OJD, DAS and County are each referred to individually as a “Party” and collectively as the “Parties.”

#### RECITALS

- A. On February 28, 2019, the Parties entered into the Clackamas County Courthouse Funding Agreement – Phase I (“Original Agreement”).
- B. On June 27, 2019, the Parties entered into Amendment No. 1 to the Original Agreement to extend the Phase Completion Date.
- C. On June 30, 2020, the Parties entered into Amendment No. 2 to the Original Agreement to extend the Phase Completion Date and revise the requirements related to State Funds for Phase I during the extended period. The Original Agreement, Amendment No. 1, and Amendment No. 2 are collectively referred to as the “Phase I Agreement.”
- D. The Parties now desire to further amend the Phase I Agreement to further extend the Phase Completion Date and revise requirements related to State Funds for Phase I during this extended period.

#### AGREEMENT

In consideration of the above Recitals which are incorporated in this Amendment and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. Any reference in the Phase I Agreement to the “Phase Completion Date” shall mean July 1, 2022.
2. Section 4(c) of the Phase I Agreement is deleted in its entirety and replaced with the following:  
  
“(c) ‘Phase Completion Date’ means July 1, 2022 (or as may be extended by the written agreement of the parties.)”
3. Section 5 of the Phase I Agreement is deleted in its entirety and replaced with the following:  
  
“(a) Subject to all the terms, conditions and limitations contained in this Section 5, the State of Oregon has agreed to contribute State Funds to the Project. The State Funds were available for expenditure for Phase I through a biennial appropriation by the Oregon State Legislature from the State’s General Fund through June 30, 2020.

- (b) If State Article XI-Q Bonds are authorized by the Oregon State Legislature, DAS after consultation with OJD, may request the State Treasurer to sell State Bonds in the 2021-23 biennium for Phase I but, as of the date of execution of this Amendment No. 3, the State has no present obligations of any kind to provide any funding after June 30, 2020 for the Project.
  - (c) If State Article XI-Q Bonds are authorized and issued in the 2021-23 biennium for the purpose of funding Phase I of the Project, the State will contribute the proceeds of such Bonds to Phase I costs.
  - (d) The Oregon Legislative Assembly may authorize additional funding for the Project but, as of the date of execution of Amendment No. 3, the State has no obligation of any kind to provide additional funding.
  - (e) The parties may enter into a Funding Agreement for Phase II subject to the provisions of Section 13 below.”
4. Except as provided in this Amendment, all other terms and conditions of the Phase I Agreement are still in full force and effect.
  5. This Amendment may be executed in two or more counterparts (by electronic signature, facsimile, or otherwise), each of which is an original and all of which when taken together are deemed one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.

**[SIGNATURES FOLLOW ON NEXT TWO PAGES]**

**The State and the County, by execution of this Amendment, each hereby acknowledge each has read this Amendment, understands it and agrees to be bound by its terms and conditions.** The Parties agree that by the exchange of this Amendment electronically, each has agreed to the use of electronic means, if applicable, instead of the exchange of physical documents and manual signatures. By inserting an electronic or manual signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Amendment, and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

**The State of Oregon,  
acting by and through its Department of Administrative Services (DAS):**

Print Name: \_\_\_\_\_

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

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

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

**The State of Oregon,  
acting by and through its Judicial Department (OJD):**

Print Name: \_\_\_\_\_

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

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

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

*Approved as to Legal Sufficiency for the State:*

By: \_\_\_\_\_  
\_\_\_\_\_, Assistant Attorney General

***Approved as to all provisions relating to the Department of Human Services, as Colocation Agency hereunder:***

**The State of Oregon,  
acting by and through its Department of Human Services (Colocation Agency):**

Print Name: \_\_\_\_\_

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

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

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

***Approved as to all provisions relating to the Office of Public Defense Services, as Colocation Agency hereunder:***

**The State of Oregon,  
acting by and through its Office of Public Defense Services (Colocation Agency):**

Print Name: \_\_\_\_\_

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

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

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

**Clackamas County, Oregon (County):**

Print Name: \_\_\_\_\_

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

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

***Approved as to legal sufficiency for the County:***

By: \_\_\_\_\_  
\_\_\_\_\_, Assistant County Attorney