



**OFFICE OF THE COUNTY ADMINISTRATOR  
PUBLIC SERVICES BUILDING**

2051 KAEN ROAD | OREGON CITY, OR 97045

November 1, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement Grant Award from the State of Oregon  
Department of Land Conservation & Development for Housing Needs Assessment

<b>Purpose/Outcome</b>	The intent of this IGA is to clarify roles and responsibilities regarding a \$100,000 grant to the County for a countywide housing needs assessment.
<b>Dollar Amount and Fiscal Impact</b>	There will be a \$100,000 grant to the county
<b>Funding Source</b>	N/A.
<b>Strategic Plan Alignment</b>	This action aligns with the following Board strategic goal: <ul style="list-style-type: none"><li>• By 2022, 2000 units of housing, affordable to a variety of residents, will be developed within Clackamas County, through a combination of public and private partnerships, and appropriate regulatory changes. Of that number, the Housing Authority goal will be to provide 1000 units affordable to households earning 60% of the area median income or less</li></ul>
<b>Duration</b>	Until June 30, 2019
<b>Previous Board Action/Review</b>	The Board approved the grant application in May of 2018.
<b>Contact Person</b>	Dan Chandler, Assistant County Administrator – (503) 742-5394

**BACKGROUND:**

This IGA details roles and responsibilities related to the \$100,000 grant from the State of Oregon toward costs for the countywide Housing Needs Assessment.

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the IGA outlining roles and responsibilities related to the \$100,000 grant to perform the countywide housing needs assessment.

Respectfully submitted,

Dan Chandler  
Assistant County Administrator

## Technical Assistance for Housing Needs Analysis

DLCD IGA #: XXXXX

Local Government IGA#: BBBB

# INTERGOVERNMENTAL AGREEMENT

This Agreement is between the State of Oregon acting by and through its Department of Land Conservation and Development (“DLCD”) and Clackamas County (“Local Government”), each a “Party” and, together, the “Parties.”

## 1. Authority

This Agreement is authorized by [ORS 190.110](#).

## 2. Effective Date

This Agreement is effective on the date of the last signature, whichever occurs last) (“Effective Date”), and terminates on June 30, 2019, unless terminated earlier

## 3. Responsibilities of Parties

Responsibilities of DLCD. DLCD will provide financial, administrative, and technical assistance to the Clackamas County Housing Needs Analysis project (the “Project”). Under separate contract, Local Government has hired a Consultant, ECONorthwest to perform the tasks of the Agreement on behalf of Local Government, a copy of which is attached hereto as Exhibit B. As detailed in Exhibit A, the Project is divided into five discrete tasks: (1) kickoff; (2) buildable lands inventory; (3) housing needs analysis; (4) housing policy analysis; and (5) final products. Task (4) is underway as of the date of this Agreement. Specific DLCD responsibilities include:

- i. Pay Clackamas County the total sum of \$100,000.00 upon completion of tasks (1), (2) and (5) of the Project. DLCD shall make payment to Clackamas County in two installments. The first payment in the sum of \$50,000.00 will be made within sixty (60) days of completion of tasks (1) and (2) of the Project. The second payment in the amount of \$50,000.00 will be made within sixty (60) days of completion of task (5).
- ii. Reviewing the work, invoices, and progress reports provided by the consultant and the County;
- iii. Participating in meetings of the technical advisory committee; and

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- v. Providing additional technical assistance, as available, when requested by the County and cities.

Responsibilities of Clackamas County. Overall management of the Project will be the responsibility of the County. The County will appoint a Project Manager to be the County's principal contact person for both DLCD's Contract Administrator and the chosen consultants on all matters concerning the Project. Specific Project responsibilities of the County include:

- i. Coordinating project schedule and deliverables with the consultants;
- ii. Coordinating Local Government staff and consultant work;
- iii. Reviewing and editing consultant work;
- iv. Appointing a technical advisory committee;
- v. Noticing, scheduling, and summarizing advisory committee meetings;
- vi. Assisting the consultants with meeting facilitation;
- vii. Notify DLCD when, in Clackamas County's sole administrative decision, the specific tasks of the Project have been completed

### **4. Compensation and Costs**

Each Party shall assume its own costs of carrying out the tasks and responsibilities under this Agreement.

### **5. Project Contacts**

The designees named below shall be the contact for all the work and services to be performed under Agreement.

#### **DLCD's Project Representatives are:**

Kevin Young - Manager  
Oregon Department of Land Conservation and Development  
635 Capitol ST NE, Suite 150  
Salem, OR 97301  
(503) 934-0030

#### **Regional Representative**

Jennifer Donnelly, Metro Regional Representative

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1600 SW Fourth Ave., Ste 109

Portland, OR 97201

Phone: (503) 725-2183

email: [Jennifer.donnelly@state.or.us](mailto:Jennifer.donnelly@state.or.us)

### **Local Government's Project Representative is:**

#### Project Manager

D. Daniel Chandler J.D., Assistant County Administrator

2051 Kaen Road

Oregon City, OR 97045

(503) 742-5394

Email: [dchandler@co.clackamas.or.us](mailto:dchandler@co.clackamas.or.us)

A Party may designate a new authorized representative by written notice to the other Party.

## **6. Background**

Every region of Oregon is experiencing housing availability or affordability problems, or both. In some cases, the comprehensive plan for the urban area is out of date so housing needs have not been determined. In other cases, the need may be known but the zoning code presents barriers to development of Needed Housing or does not allow certain types of housing needed by the residents.

DLCD will provide technical assistance to local governments in increasing the affordability of housing within the boundaries of the local governments. Technical assistance will be in the form of direct assistance in the completion of products used to update comprehensive plans and zoning codes to help ensure that every community in Oregon can satisfy its housing needs.

DLCD will reimburse local governments for the cost to complete any or all the tasks and services of the Housing Needs Analyses, composed of a Housing Needs Projection, a BLI, an RNLA, and comprehensive plan policies for accommodating Needed Housing; zoning code audits; zoning code updates; or housing strategy implementation plans; or some combination of these products as needed by the local government.

The project will focus on, but not be limited to, urban areas of cities over 10,000 population where 25 percent or more of the renter households in the Local Government are Severely Rent Burdened.

## **7. Purpose**

The purpose of this project is to assist local governments to provide for and accommodate their housing needs. The Agency will select one or more Proposers who will collaborate with the Agency and Participating Cities and Counties to create products that can be used to update local comprehensive plans and codes to accommodate Needed Housing. The Proposer will coordinate with each assigned Participating Local Government and County to complete products requested.

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During the 2018 legislative session, the legislature appropriated funds for the project to the Department of Land Conservation and Development for the purpose of providing technical assistance to local governments in increasing the affordability of housing within the boundaries of the local governments (2018 Oregon Laws, chapter 47([House Bill 4006](#))). The deliverables are expected to be incorporated into local government and county comprehensive land use plans

### **8. Termination**

This Agreement may be terminated at any time by either Party upon 30 days advance written notice.

### **9. Non-Discrimination**

In carrying out activities under this agreement, neither Party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, familial status, or national origin. Either Party shall take affirmative actions to ensure that applicants for employment are employed and that employees are treated during employment, without regard to their race, color religion, sex, age, handicap, familial status, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff of termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

### **10. Non-Appropriation**

DLCD's obligation to perform its duties under this Agreement is conditioned upon DLCD receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow DLCD, 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 law limiting the activities, liabilities or monetary obligations of DLCD.

### **11. Representations and Warranties**

The making and performance by Local Government of this Agreement (a) have been duly authorized by Local Government, (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 Local Government'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 Local Government is party or by which Local Government 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 with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained.

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### 12. Records

Parties and their duly authorized representatives shall have access to the books, documents, and records which are directly pertinent to Agreement for the purpose of making audit, examination, excerpts, and transcript. This does not require either Party to provide documents that are legally privileged or otherwise exempt from disclosure under Oregon public records law.

### 13. 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](#) (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 Agreement with respect to the Third Party Claim.

With respect to a Third Party Claim for which DLCD is jointly liable with Local Government (or would be if joined in the Third Party Claim), DLCD shall contribute to the amount of expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of DLCD on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgements, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of DLCD on the one hand and of Local Government 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, judgements, fines or settlement amounts. DLCD'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 Local Government is jointly liable with DLCD (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by DLCD in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of DLCD on the other hand in connection with the events that resulted in such expenses, judgements, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of DLCD on the other hand shall be determined by reference to, among other things, the

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Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgements, fines or settlement amounts. Local Government'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.

### **14. Subcontracting and Assignment**

. No Party shall enter into any subcontract for any of the work listed under this Agreement without written consent of the other Party

### **15. 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, suite or proceeding (collectively "Claim") between DLCD or any other agency or department of the State of Oregon, or both, and Local Government that arises from or relates to this Agreement 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.

### **16. Indemnification**

Each Party shall defend, save, hold harmless, and indemnify the other Party and the other Party's Agencies, subdivisions, officers, directors, employees and agents from and against all claims, suits, actions, loses damages, liabilities, costs and expenses of any nature whatsoever (Claims), including attorney fees, resulting from and arising out of, or relating to the acts or omissions of the indemnifying Party's officers, employees, subcontractors or agents under this Agreement. Any indemnity by DLCD under this section shall be subject to the limitations of Article XI, Section & of the Oregon Constitution and the Oregon Tort Claims Act, 30.260 to 30.300.

### **17. Insurance**

Each Part shall each be responsible for providing workers' compensation insurance as required by law for its covered workers. Neither Party shall be required to provide or show proof of self-insurance, workers' compensation or any other insurance coverage.

### **18. Severability**

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

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### **19. Compliance With Law**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

### **20. Force Majeure**

Neither Party shall be held responsible for delay or default caused by fire, riot, acts of God, and war which are beyond its reasonable control. The affected Party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under Agreement.

### **21. No Third Party Beneficiary**

DLCD and Local Government are the only parties to Agreement and such are the only Parties entitled to enforce its terms. Nothing contained in Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties. The consultants retained by DLCDC are expressly excluded as parties or beneficiaries to this agreement and are barred from enforcing the terms of Agreement.

### **22. Merger, waiver and Modification**

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.

### **23. Amendments**

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties. Any amendment to Agreement shall require the signatures of the approving authorities of both Parties.



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**24. 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.

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

LOCAL GOVERNMENT

LOCAL GOVERNMENT

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Department of Land Conservation and  
Development (DLCD)

\_\_\_\_\_  
Jim Rue, Director

\_\_\_\_\_  
Date