



AGENDA

Thursday, April 24, 2014 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2014-28

I. CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

III. PUBLIC HEARING *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Second Reading of Ordinance No. 01-2014 Amending Title 6 Public Protection of the Clackamas County Code and Adding Section 6.12 Declaring a Moratorium on Medical Marijuana Facilities and Declaring an Emergency (Stephen Madkour, County Counsel)
1st reading and public hearing was April 3, 2014

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

~NO DISCUSSION ITEMS SCHEDULED

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

A. Health, Housing & Human Services

- 2 1. Approval of Revenue Intergovernmental Agreement with Oregon Health Authority for the Todos Graduados-Everybody Graduates! Prevention Project – *Children, Youth & Families*
- 3 2. Approval of an Agency Services Contract with Compass Group USA, Inc. d.b.a. Bateman Senior Meals for Food Service for Five Clackamas County Older Americans Act Nutrition Program Meal Sites – *Social Services*

- 4 3. Approval of an Amendment #01 to Intergovernmental Agreement with Washington County, for the Cities Readiness Initiative Program – *Public Health*
- 5 4. Approval of Intergovernmental Agreements with the City of Lake Oswego, Tualatin Valley Fire & Rescue and Clackamas Fire District #1 for Advanced Life Support Emergency Medical System Integration - *Public Health*
- B. Elected Officials**
- 6 1. Approval of Previous Business Meeting Minutes – *BCC*
- C. Department of Emergency Management**
- 7 1. Approval of FY 2011 Urban Area Security Initiative Intergovernmental Agreement Amendment No. 2 with the City of Portland
- 8 2. Approval of FY 2011 Urban Area Security Initiative Intergovernmental Local Grant Agreement with Boring Water District No. 64
- 9 3. Approval of Amendment No. 1 of the Sub-Recipient Grant Agreement No. 14-007 with Clackamas River Water

VI. DEVELOPMENT AGENCY

- 10 1. Approval of an Easement to Portland General Electric Company on Agency Owned Property Located at 10910 SE 82nd Ave.

VII. COUNTY ADMINISTRATOR UPDATE

VIII. COMMISSIONERS COMMUNICATION

NOTE: *Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.*

www.clackamas.us/bcc/business.html



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD | OREGON CITY, OR 97045

April 24, 2014

Stephen L. Madkour
 County Counsel

Board of County Commissioner
 Clackamas County

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
 Assistants

Members of the Board:

Second Reading of Ordinance No.01-2014, Amending Title 6 Public Protection of the Clackamas County Code and Adding Section 6.12 Declaring a Moratorium on Medical Marijuana Facilities and Declaring an Emergency

Purpose/Outcomes	A moratorium on medical marijuana facilities is proposed to allow the County time to monitor issues associated with siting and operation of such facilities and to draft potential time, place and manner restrictions for board consideration.
Dollar Amount and Fiscal Impact	The cost to implement and enforce the moratorium would be internal to the county involving staff time and resources.
Funding Source	No new funding
Safety Impact	Moratorium is in the best interest of the health, safety, and welfare of citizens of Clackamas County
Duration	Effective May 1, 2014 until May 1, 2015 unless repealed earlier by the board
Previous Board Action	The Board met in an April 2, 2014 study session on this matter and decided to proceed to a public hearing. The first reading of the ordinance was on April 3, 2014.
Contact Person	Stephen L. Madkour, County Counsel and Mike McCallister, Planning Director

BACKGROUND:

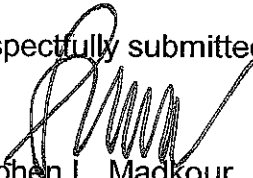
On March 19, 2014, Governor Kitzhaber signed Senate Bill 1531 into law. The law makes changes to Oregon's medical marijuana dispensary law which gives local governments the authority to impose "time, place and manner" regulations on medical marijuana dispensaries, but stops short of authorizing local

governments to institute outright bans on these facilities. Instead local governments have the option to impose a moratorium on dispensaries if they adopt an ordinance prior to May 1, 2014. These moratoriums will remain in effect up to May 1, 2015 unless extended by the Legislature in the 2015 session.

RECOMMENDATION:

Staff recommends the Board of County Commissioners read the proposed ordinance by title only and declaring an emergency. After the second reading the proposed ordinance would be adopted.

Respectfully submitted,



Stephen L. Madkour
County Counsel

ORDINANCE NO. 01-2014

AN ORDINANCE AMENDING TITLE 6 PUBLIC PROTECTION
OF THE CLACKAMAS COUNTY CODE AND ADDING CHAPTER 6.12 DECLARING A
MORATORIUM ON MEDICAL MARIJUANA FACILITIES AND DECLARING AN
EMERGENCY

WHEREAS, the Oregon Legislature enacted House Bill 3460 (2013), which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities;

WHEREAS, House Bill 3460 (2013) directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution;

WHEREAS, the Oregon Legislature enacted Senate Bill 1531 (2014) which affirmatively afforded Oregon cities and counties the ability to impose a moratorium on medical marijuana dispensaries to locate within their boundaries until May 1, 2015;

WHEREAS, Senate Bill 1531 (2014) removes immunity from state prosecution for person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium prohibiting the operation of a medical marijuana facility;

WHEREAS, the issue of whether a local government determines a certain type of business should operate within its jurisdictional limits is an area of county concern and a local government decision, the enforcement of which is subject to the general and police powers of that jurisdiction;

WHEREAS, legal uncertainty surrounds the ability and the authority of the State to allow for the location of medical marijuana dispensaries in Oregon cities and counties where to do so arguably violates federal law;

WHEREAS, the Board of Commissioners OF Clackamas County has determined that it is in the best interests of the health, safety and welfare of the citizens of Clackamas County to enact such a moratorium prohibiting the siting and operation of a medical marijuana facilities within the jurisdictional boundaries of unincorporated Clackamas County so as to provide time to examine the range of options surrounding the regulation or prohibition of medical marijuana facilities within unincorporated Clackamas County.

NOW THEREFORE, BASED ON THE FOREGOING, THE BOARD OF COMMISSIONERS OF CLACKAMAS COUNTY ORDAINS AND AMENDS THE COUNTY CODE AS FOLLOWS:

Section 1. Title 6 of the Clackamas County Code is amended in its entirety to add Chapter 6.12 to read as follows:

6.12 MEDICAL MARIJUANA FACILITY MORATORIUM

- A. **MORATORIUM DECLARED.** The County of Clackamas hereby issues a moratorium prohibiting the operation of any medical marijuana facility in any area subject to the jurisdiction of Clackamas County. As used in this section, "medical marijuana facility" includes any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law.
- B. **ENFORCEMENT.** The Sheriff is charged with enforcement of the moratorium.
- C. **EFFECTIVE DATE.** The moratorium imposed hereby is effective from and after the enactment of this ordinance and continues until May 1, 2015, unless otherwise lawfully rescinded or extended.
- D. **REMEDIES NOT EXCLUSIVE.** The remedies available under Senate Bill 1531 (2014) for a violation of the moratorium imposed by this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the Sheriff of Clackamas County to seek cumulative remedies for a violation of the moratorium imposed by this ordinance.
- E. **SEVERABILITY.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.
- F. **OREGON HEALTH AUTHORITY NOTICE.** A copy of this Ordinance shall be forwarded to the Oregon Health Authority by regular mail and by any other such means as required by rule of the Oregon Health Authority.

EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its adoption.

ADOPTED this 29th day of April 2014.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

April 24, 2014

Board of County Commissioner
Clackamas County

Members of the Board:

**Approval of Revenue Intergovernmental Agreement
with Oregon Health Authority for the
Todos Graduados-Everybody Graduates! Prevention Project**

Purpose/Outcomes	Oregon Health Authority will contract with Children, Youth & Families Division, to implement drop-out prevention services to improve engagement and academic achievement for Latino youth. Services will increase Latino youth's attachment to school and positive adults (mentors) resulting in increased graduation rates.
Dollar Amount and Fiscal Impact	Total amount of this agreement is \$50,000. Funds from this grant may fund all or part of a current CYF division staff position. There are no match requirements with this grant.
Funding Source	Funds are budgeted in the State Revenues grant stream for fiscal year 2013-2014 to cover this agreement. No County General Funds are involved.
Safety Impact	N/A
Duration	This agreement is effective March 1, 2014 and terminates August 31, 2016.
Previous Board Action	N/A
Contact Person	Rodney A. Cook
Contract No.	145395/6616

BACKGROUND:

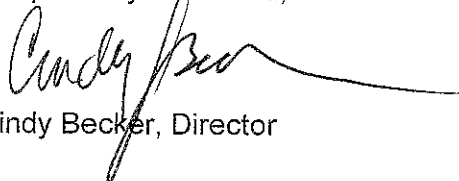
The Children, Youth & Families Division of the Health, Housing and Human Services Department (H3S), requests the approval of a Revenue Intergovernmental Agreement with the Oregon Health Authority to develop and oversee the "Innovation Prevention Project Todos Graduados-Everybody Graduates!" The Todos Graduados-Everybody Graduates program will focus its efforts on high risk 12-18 year old Latino students in Clackamas County to improve their academic achievement.

This contract has been reviewed and approved by Kim Ybarra of County Counsel April 2, 2014.

RECOMMENDATION:

Staff recommends the Board approval of this amendment and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Cindy Becker, Director

Grant Agreement Number 145395



**STATE OF OREGON
OREGON HEALTH AUTHORITY
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 Agreement is between the State of Oregon, acting by and through the Oregon Health Authority, hereinafter referred to as "OHA," and

**Clackamas County
Acting by and through its Children, Youth, and Family Division
2051 Kaen Road
Oregon City, OR 97045
Telephone: 503-650-5677
Facsimile: 503-650-5674
E-mail address: rodc@co.clackamas.or.us**

hereinafter referred to as "Grantee."

Work to be performed under this Agreement relates principally to the OHA's

**Addictions and Mental Health Division
500 Summer Street, E86
Salem, Oregon 97301
Agreement Administrator: Karen Wheeler or delegate
Telephone: 503-945-6191
Facsimile: 503-378-8467
E-mail address: karen.wheeler@state.or.us**

1. Effective Date and Duration.

This Agreement shall become effective on March 1, 2014. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on August 31, 2015. Agreement termination shall not extinguish or prejudice OHA's right to enforce this Agreement with respect to any default by Grantee that has not been cured.

2. Agreement Documents.

a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Todos Graduados- Everybody Graduates! Prevention Project
- (2) Exhibit A, Part 2: Disbursement
- (3) Exhibit B: Standard Terms and Conditions
- (4) Exhibit C: Insurance Requirements
- (5) Exhibit D: Required Federal Terms and Conditions
- (6) Attachment 1: Program Narrative & Successes Report

There are no understandings, agreements or representations, oral or written, regarding this Agreement that are not specified in it.

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

3. Grant Disbursement Generally

In accordance with the terms and conditions of this Agreement, OHA shall provide the Grantee with a maximum amount of \$50,000.00 (the "Grant") as described in Exhibit A., Part 2.

4. Vendor or Sub-Recipient Determination.

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, OHA's determination is that:

Grantee is a sub-recipient; **OR** Grantee is a vendor.

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.959

5. **Grantee Data and Certification**

- a. **Grantee Information.** Grantee shall provide information set forth below. This information is requested pursuant to ORS 305.385.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

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

Clackamas County - Children, Youth & Families

Street address: _____

2051 Kaca Rd

City, state, zip code: _____

Oregon City, OR 97045

Email address: _____

rod.coo@co-clackamas.or.us

Telephone: _____

(503) 650-5678

Facsimile: (503) 650-5674

Federal Employer Identification Number: _____

93-602286

Proof of Insurance:

Workers' Compensation Insurance Company: _____

Self-Insurance

Policy #: _____

Self-Insurance

Expiration Date: _____

The above information must be provided prior to Agreement approval. Grantee shall provide proof of Insurance upon request by OHA or OHA designee.

- b. **Certification.** The Grantee acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Grantee and that pertains to this Agreement or to the project for which the Agreement work is being performed. The Grantee certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee. Without limiting the generality of the foregoing, by signature on this Agreement, the Grantee hereby certifies that:

- (1) Under penalty of perjury 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;
- (2) The information shown in this Section 5., Grantee Data and Certification, is Grantee's true, accurate and correct information;

- (3) 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;
 - (4) Grantee and Grantee's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;
 - (5) Grantee is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Nonprocurement Programs" found at:
<https://www.sam.gov/portal/public/SAM/>; and
 - (6) Grantee is not subject to backup withholding because:
 - (a) Grantee is exempt from backup withholding;
 - (b) Grantee has not been notified by the IRS that Grantee is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Grantee that Grantee is no longer subject to backup withholding.
- c. Grantee is required to provide its Federal Employer Identification Number (FEIN). By Grantee's signature on this Agreement, Grantee hereby certifies that the FEIN provided to OHA is true and accurate. If this information changes, Grantee is also required to provide OHA with the new FEIN within 10 days.

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

6. Signatures:

Clackamas County acting by and through its Children, Youth, and Family Division
By:

Authorized Signature	Title	Date
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State of Oregon acting by and through its Oregon Health Authority pursuant to ORS 190
By:

Authorized Signature	Title	Date
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Approved for Legal Sufficiency:

Assistant Attorney General	Exempt per OAR 137-045-0030(1)(a)	Date
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OHA Program:

Approved via email by Arlenia Broadwell	3/28/2014
Name	Date

Office of Contracts and Procurement:

Contract Specialist	Date
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EXHIBIT A

Part 1

Todos Graduados- Everybody Graduates! Prevention Project

1. **Name of Innovative Prevention Project:** Todos Graduados - Everybody Graduates!
2. **Purpose:** Todos Graduados- Everybody Graduates! will partner with middle and high schools in Clackamas County to improve the engagement and academic achievement of high risk and high needs of Latino students, ages 12 - 18, with substance abuse and other risk factors. As a twofold process, a comprehensive countywide needs assessment, readiness assessment and resource development assessment will be completed to inform the development of an innovative prevention project that will be piloted at one high school and one feeder middle school in at least one district in Clackamas County.
3. **Description of allowable activities:** this Grant shall only be used in activities related to the innovative prevention project named above and in response to RFGP 3680. Activities must include:
 - a. Engaging determined school communities in implementing effective practices to reduce risk factors and increase protective factors to improve engagement and academic achievement for Latino youth.
 - b. Increasing the safeness and connections Latino youth and their families feel towards school.
 - c. Completing a gap analysis process to determine areas for intervention.
 - d. Developing a localized project team that is invested in seeing results and offering resources.

OHA reserves the right to recover any funds as described in Exhibit B., Section 6., "Recovery of Overpayments"

4. **Reporting Requirements:**

Grantee shall capture Todos Graduados - Everybody Graduates! prevention project activity by submitting semi-annual activity reports as described in Attachment #1 to OHA. Grantee shall also provide an end of prevention project completion report which shall include number of people served and a list of all major project outcomes.

Semiannual and Final Completion report shall be submitted to the following:

Addictions and Mental Health Services
Attn: Contract Administrator
500 Summer Street NE – E86
Salem, OR 97301-1118
amhcontract.administrator@state.or.us

EXHIBIT A

Part 2 Disbursement

1. **Disbursement Provisions:** Upon execution of this Agreement and acceptance of a completed invoice, OHA will disburse the entire Grant amount to Grantee.
2. **Travel and Other Expenses:** OHA shall not reimburse Grantee for any travel or additional expenses under this Agreement.

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 Grantee and OHA, 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.
3. **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.
4. **Representations and Warranties**
 - a. Grantee represents and warrants as follows:
 - (1) **Organization and Authority.** Grantee is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. Grantee 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 Grantee of this Agreement (a) have been duly authorized by all necessary action by Grantee 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 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 a party or by which Grantee may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by Grantee and constitutes a legal, valid and binding obligation of Grantee, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) Grantee has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Grantee 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 Grantee's industry, trade or profession;
- (5) Grantee shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) Grantee prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. OHA represents and warrants as follows:

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

6. **Recovery of Overpayments.** If billings under this Agreement, or under any other Agreement between Grantee and OHA, result in payments to Grantee to which Grantee is not entitled, OHA, after giving to Grantee written notification and an opportunity to object, may withhold from payments due to Grantee such amounts, over such periods of time, as are necessary to recover the amount of the overpayment, subject to Section 7 below. Prior to withholding, if Grantee objects to the withholding or the amount

proposed to be withheld, Grantee shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

7. **Compliance with Law.** Nothing in this Agreement shall require Grantee or OHA to act in violation of state or federal law or the Constitution of the State of Oregon.

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) "Grantee Intellectual Property" means any intellectual property owned by Grantee and developed independently from the Work.

(2) "Third Party Intellectual Property" means any intellectual property owned by parties other than OHA or Grantee.

b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA will not own the right, title and interest in any intellectual property created or delivered by Grantee or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the Grantee owns, Grantee grants to OHA 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 OHA's behalf, and (3) sublicense to third parties the rights set forth in Section 8.b.(1).

c. If state or federal law requires that OHA or Grantee grant to the United States a license to any intellectual property, or if state or federal law requires that the OHA or the United States own the intellectual property, then Grantee shall execute such further documents and instruments as OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA. To the extent that OHA becomes the owner of any intellectual property created or delivered by Grantee in connection with the Work, OHA 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 Grantee to use, copy, distribute, display, build upon and improve the intellectual property.

d. Grantee shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as OHA 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. **Grantee Default.** Grantee shall be in default under this Agreement upon the occurrence of any of the following events:

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

- b. Any representation, warranty or statement made by Grantee herein or in any documents or reports relied upon by OHA to measure the delivery of Work, the expenditure of payments or the performance by Grantee is untrue in any material respect when made;
 - c. Grantee (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 Grantee, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Grantee, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Grantee or of all or any substantial part of its assets, or (3) similar relief in respect to Grantee 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 Grantee is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).
- 10. OHA Default.** OHA shall be in default under this Agreement upon the occurrence of any of the following events:
- a. OHA 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 OHA herein or in any documents or reports relied upon by Grantee to measure performance by OHA is untrue in any material respect when made.
- 11. Termination.**
- a. **Grantee Termination.** Grantee may terminate this Agreement:
 - (1) For its convenience, upon at least 30 days advance written notice to OHA;
 - (2) Upon 45 days advance written notice to OHA, if Grantee does not obtain funding, appropriations and other expenditure authorizations from Grantee's governing body, federal, state or other sources sufficient to permit Grantee to satisfy its performance obligations under this Agreement, as determined by Grantee in the reasonable exercise of its

administrative discretion;

- (3) Upon 30 days advance written notice to OHA, if OHA 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 Grantee may specify in the notice; or
- (4) Immediately upon written notice to OHA, 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 Grantee no longer has the authority to meet its obligations under this Agreement.

b. OHA Termination. OHA may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to Grantee;
- (2) Upon 45 days advance written notice to Grantee, if OHA does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of OHA under this Agreement, as determined by OHA in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, OHA may terminate this Agreement, immediately upon written notice to Grantee or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces OHA's legislative authorization for expenditure of funds to such a degree that OHA will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by OHA 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 Grantee 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 OHA 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 Grantee, if Grantee 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 OHA may specify in the notice;
- (5) Immediately upon written notice to Grantee, if any license or certificate required by law or regulation to be held by Grantee or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that Grantee 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;

- (6) Immediately upon written notice to Grantee, if OHA determines that Grantee 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, OHA shall have no further obligation to pay Grantee under this Agreement.
- (2) Upon termination of this Agreement, Grantee 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. Grantee shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

15. Records Maintenance; Access. Grantee shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Grantee shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Grantee, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Grantee's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Grantee whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Grantee acknowledges and agrees that OHA 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. Grantee 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. Grantee 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 Grantee or its subcontractor(s) to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants Grantee or its subcontractor(s) access to such OHA Information Assets or Network and Information Systems, Grantee shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through OAR 943-014-0320, 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 943-014-0305, as such rule may be revised from time to time.
- 17. Force Majeure.** Neither OHA nor Grantee 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 OHA or Grantee, 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. OHA 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. Grantee shall not assign or transfer its interest in this Agreement without prior written approval of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions as OHA may deem necessary. No approval by OHA of any assignment or transfer of interest shall be deemed to create any obligation of OHA 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.** Grantee shall not enter into any subcontracts for any of the Work required by this Agreement without OHA's prior written consent. In addition to any other provisions OHA may require, Grantee shall include in any permitted subcontract under this Agreement provisions to require that OHA will receive the benefit of subcontractor performance as if the subcontractor were the Grantee with respect to Sections 1, 2, 3, 4, 8, 15, 16, 18, 21, and 23 of this Exhibit B. OHA's consent to any subcontract shall not relieve Grantee of any of its duties or obligations under this Agreement.

21. **No Third Party Beneficiaries.** OHA and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that Grantee's performance under this Agreement is solely for the benefit of OHA to assist and enable OHA 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, 7, 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 Grantee or OHA 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 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 at number listed below. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

OHA: Office of Contracts & Procurement
250 Winter St NE, Room 306
Salem, OR 97301
Telephone: 503-945-5818
Facsimile Number: 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. **Counterparts.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement and any amendments so executed shall constitute an original.
28. **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.
29. **Construction.** [Reserved]
30. **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 Grantee (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 Grantee in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the 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. 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 Grantee is jointly liable with the State (or would be if joined in the Third Party Claim), the 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 the State in such proportion as is appropriate to reflect the relative fault of the Grantee 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 Grantee 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 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.

- 31. Indemnification by Subcontractors.** Grantee 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 Grantee's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
- 32. Stop-Work Order.** OHA may, at any time, by written notice to the Grantee, require the Grantee 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, Grantee 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, OHA 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, OHA may, after receiving and evaluating a request by the Grantee, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

EXHIBIT C

Subcontractor Insurance Requirements

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

1. **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.

2. **Professional Liability.**

Required by OHA Not required by OHA

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than the following, as determined by OHA:

3. **Commercial General Liability.**

Required by OHA Not required by OHA

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to OHA. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by OHA:

Bodily Injury/Death:

Per occurrence limit for any single claimant:

From commencement of the Agreement term through June 30, 2015: ...\$2,000,000.

From July 1, 2015 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

Per occurrence limit for multiple claimants:

From commencement of the Agreement term through June 30, 2015: ..\$4,000,000.

From July 1, 2015 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

AND

Property Damage:

Per occurrence limit for any single claimant:

From commencement of the Agreement term through June 30, 2014: ...\$200,000.

From July 1, 2014 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.273(3).

Per occurrence limit for multiple claimants:

From commencement of the Agreement term through June 30, 2014: ...\$600,000.

From July 1, 2014 and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.273(3).

4. Automobile Liability Insurance.

Required by OHA Not required by OHA

Automobile Liability Insurance covering all owned, non-owned and hired vehicles.

This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability").

5. Additional Insured. The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

6. "Tail" Coverage. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Grantee's acceptance of all services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and OHA may grant approval of the maximum "tail" coverage period reasonably available in the

marketplace. If OHA approval is granted, the contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.

7. **Notice of Cancellation or Change.** The contractor or its insurer must provide 30 days’ written notice to Grantee before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).
8. **Certificate(s) of Insurance.** Grantee shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: (i) all entities and individuals who are endorsed on the policy as Additional Insured and (ii) for insurance on a “claims made” basis, the extended reporting period applicable to “tail” or continuous “claims made” coverage.

- f. No part of any federal funds paid to Grantee under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h. No part of any federal funds paid to Grantee under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **HIPAA Compliance.** OHA is a Covered Entity with respect to its healthcare components as described in OAR 943-014-0015 for purposes of the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and OAR 125-055-0100 through OAR 125-055-0130. OHA must comply with HIPAA to the extent that any Work or obligations of OHA arising under this Agreement are covered by HIPAA. Grantee shall determine if Grantee will have access to, or create any protected health information in the performance of any Work or other obligations under this Agreement. To the extent that Grantee will have access to, or create any protected health information to perform functions, activities, or services for, or on behalf of, a healthcare component of OHA in the performance of any Work required by this Agreement, Grantee shall comply and cause all subcontractors to comply with OAR 125-055-0100 through OAR 125-055-0130 and the following:
- a. Privacy and Security of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Grantee and OHA for purposes directly related to the provision of services to Clients which are funded in whole or in part under this Agreement. To the extent that Grantee is performing functions, activities, or services for, or on behalf of, a healthcare component of OHA in the performance of any Work required by this Agreement, Grantee shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate OHA Privacy Rules, OAR 943-014-0000 *et. seq.*, or

OHA Notice of Privacy Practices. A copy of the most recent OHA Notice of Privacy Practices may be obtained by contacting OHA or by looking up form number 2090 on the OHA web site at <https://apps.state.or.us/cfi/FORMS/>.

- b. Data Transactions Systems. If Grantee intends to exchange electronic data transactions with a health care component of OHA in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Grantee shall execute an EDI Trading Partner Agreement with OHA and shall comply with OHA EDI Rules.
- c. Consultation and Testing. If Grantee reasonably believes that the Grantee's or OHA's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Grantee shall promptly consult the OHA Information Security Office. Grantee or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the OHA testing schedule.

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

8. **Audits.**

- a. Grantee shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
- b. Sub-recipients shall also comply with applicable Code of Federal Regulations (CFR) and OMB Circulars governing expenditure of federal funds including, but not limited, to OMB A-133 Audits of States, Local Governments and Non-Profit Organizations.

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

10. **Drug-Free Workplace.** Grantee shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) Grantee certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a

controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Grantee's workplace or while providing services to OHA clients. Grantee's notice shall specify the actions that will be taken by Grantee against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Grantee's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify OHA within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither Grantee, or any of Grantee's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Grantee or Grantee's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Grantee or Grantee's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to OHA clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

11. **Pro-Children Act.** Grantee shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
12. **Medicaid Services.** Grantee shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR Part 431.107(b)(1) & (2).

- b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
- c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 subpart I.
- d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Grantee shall acknowledge Grantee's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
- e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid Agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).

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

14. Disclosure.

- a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care

entity.

- b. 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. Grantee shall make the disclosures required by this Section 14. to OHA. OHA reserves the right to take such action required by law, or where OHA has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

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

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.

Attachment 1
Oregon Health Authority
Addictions and Mental Health Division

Innovative Prevention Project Narrative & Successes Report

- March 2014 through June 30, 2014
- July 1, 2014 through Dec 31, 2014
- January 1, 2015 through June 31, 2015

Grantee Name: _____

Grant Agreement Number: _____

The “success stories” and other activities used in answers to the questions below will be used to highlight prevention services across the state in our Annual Substance Abuse Prevention Report. You may include pictures and/or relevant graphics, charts, or graphs to further explain your successes. Please indicate whether or not you grant AMH permission to use these items in creating the statewide annual report.

Referring to your innovative prevention project of this Grant Agreement during the current reporting time frame, please answer the following questions:

1. Which objectives or activities do you consider to have been the most successful and why?
2. Which objectives or activities that you had planned to implement did not work out as you had hoped or expected, and why?
3. What overall challenges or obstacles did you encounter?
4. What factors were already in place that contributed to your success?
5. What percent of budget has been spent to date?
6. How could we provide you with improved support at the state level?

April 24, 2014

Board of Commissioners,
Clackamas County

Members of the Board:

**Approval of an Agency Services Contract with Compass Group USA, Inc.
d.b.a. Bateman Senior Meals for Food Service for Five Clackamas County
Older Americans Act Nutrition Program Meal Sites**

Purpose/Outcomes	Agreement with Compass Group USA, Inc. d.b.a. Bateman to provide Food Service for five OAA funded meal sites in Clackamas County.
Dollar Amount and Fiscal Impact	The maximum agreement is \$330,720. Funded by Social Services Div. agreement with Oregon Dept of Human Services, State Unit on Aging.
Funding Source	Federal Older American Act (OAA) - no County General Funds are involved.
Safety Impact	None
Duration	Effective July 1, 2014 and terminates on June 30, 2015
Previous Board Action	
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	6627

BACKGROUND:

The Social Services Division of the Health, Housing & Human Services Department requests the approval of an Agency Services Contract with Compass Group USA Inc. dba Bateman Meals for Food Service for program meal sites. This agreement provides funding for food services through Compass Group USA, Inc.; d.b.a. Bateman, to five Older Americans Act (OAA) funded senior nutrition program meal sites. The sites are located in Estacada, Gladstone, Oregon City, Molalla, and Sandy and provide meals for persons age 60 and over. These meals are served at the above Sites as either the noon meal served at the Senior Center or as Meals on Wheels® delivered by a volunteer. The goal of the program is to help residents meet their nutritional and social needs. This helps them to remain independent and involved in the community as long as possible.

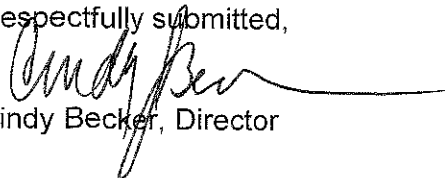
In December 2013 Social Services advertised for a contractor to provide Older American Act funded food services in Clackamas County during Fiscal Year 2014-15, with an option to renew for four additional years. Compass Group USA, Inc.; d.b.a. Bateman was the only responder and they met the RFP requirements. This is the first agreement under that RFP process.

Total amount of the contract is \$330,720 for up to 96,000 meals. This contract is in the format approved by County Counsel as part of the H3S contract standardization project. No County General Fund dollars are involved. The contract begins July 1, 2014 and continues through June 30, 2015.

Recommendation

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

Respectfully submitted,


Cindy Becker, Director

CONTRACT FOR SERVICES

between

CLACKAMAS COUNTY SOCIAL SERVICES DIVISION
AREA AGENCY ON AGING

And

COMPASS GROUP USA, Inc., dba

BATEMAN SENIOR MEALS

Fiscal Year 2014-2015

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AGENCY SERVICE CONTRACT

This contract is between Clackamas County acting by and through the Health, Housing, & Human Services department, Social Services Division, hereinafter called "COUNTY," and Compass Group USA, Inc., dba Bateman Senior Meals, hereinafter called "AGENCY."

I. SCOPE OF SERVICES

A. AGENCY agrees to accomplish the following work under this contract:

Food Service - produce and bulk deliver meals to Five (5) Senior Nutrition Program meal sites in Clackamas County (Estacada, Gladstone, Molalla, Oregon City, and Sandy). Each meal must contain at least one-third of the Recommended Dietary Allowance (RDA) as established by the Food and Nutrition Board, National Research Council - National Academy of Science. A unit is one meal ordered and delivered from the central kitchen.

Scope of Work, Performance Standards and Guidelines for Service is Exhibit 1, attached hereto.

B. Services required under the terms of this agreement shall commence July 1, 2014. This agreement shall terminate June 30, 2015. This contract is the result of the formal proposal process conducted January 2014. This is the first agreement under this process.

II. COMPENSATION AND RECORDS

A. Compensation. County shall compensate the Agency for satisfactorily performing the services identified in Section I on a fixed unit rate reimbursement basis, as described in Exhibit 3, "Budget and Units of Service," attached hereto. The maximum net compensation is \$330,720.

B. Method of Payment. To receive payment, the Agency shall submit monthly billings and accompanying back-up reports by the 10th business day of the month following the billing period, as described in Exhibit 2. The billings and back-up reports will be on forms provided or approved by County. The billings are for:

1. Number of meals ordered by and delivered from kitchen to each of the sites.
2. Consumables or other supplies that meal sites purchase from Agency will be paid for by individual sites.
3. Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should the Agency fail to submit required reports

when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, the County shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until the Agency submits required reports, performs required services, or establishes the County's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of the Agency

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.
- D. Access to Records. The County, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Agency which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, and transcripts.

If an audit discloses that payments to the Agency were in excess of the amount to which the Agency was entitled, then the Agency shall repay the amount of the excess to the County.

III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations. The Agency shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.

When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.

- B. Special Federal Requirements: Older Americans Act of 1965, as amended in 2006. Common rule restricts lobbying (Volume 56, NO38 of Fed. Register, Feb. 1990).
- C. Agency shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the County. Agency shall submit copies of final subcontracts to County for approval before disbursing any County funds to subcontractors to provide services under this contract.

Agency may only assign this contract to a parent or affiliated company without prior written approval of County (which shall be attached to the original contract) and subject to such conditions and provisions as County may deem necessary. No such approval by County of any assignment shall be deemed in any event or

in any manner to provide for the incurrence of any obligation of County in addition to the total agreed upon price.

- D. Agency certifies that it is an independent contractor and not an employee or agent of the County, State, or Federal Government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of the Agency.

- E. Confidentiality. All information as to personal facts and circumstances about clients obtained by the Agency shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her attorney, the responsible parent of a minor child, or his or her guardian except as required by other terms of this contract. Nothing prohibits the disclosure of information in summaries, statistical, or other form which does not identify particular individuals.

The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this contract. Confidentiality policies shall be applied to all requests from outside sources. The ADS, the Division, the Agency and subcontractor, if there is one, will share information as necessary to effectively serve mutual clients.

IV. GENERAL CONDITIONS

- A. Indemnity. The AGENCY agrees to indemnify, save harmless and defend the COUNTY, its officers, commissioners, 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 negligent acts or omissions of the AGENCY or the AGENCY's employees.

- B. Insurance.

- 1. Commercial General Liability

Required by COUNTY Not required by COUNTY

Agency shall obtain, at Agency's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate for the protection of the County, its officers, commissioners and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The County, at its option, may require a complete copy of the above policy.

2. Commercial Automobile Liability

Required by COUNTY Not required by COUNTY

Agency shall also obtain, at Agency's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000. The County, at its option, may require a complete copy of the above policy.

3. Additional Insurance Provisions The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.

Such insurance shall provide sixty (60) day written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

4. Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to the Clackamas County Purchasing Division. Any failure to comply with this provision will not affect the insurance coverage provided to the County. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

5. Insurance Carrier Rating. Coverages provided by the Agency must be underwritten by an insurance company deemed reasonably acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

6. Certificates of Insurance. As evidence of the insurance coverage required by this contract, the Agency shall furnish a Certificate of Insurance to Clackamas County. No contract shall be affected until the required certificates have been received, approved and accepted by the County. A renewal certificate will be sent to the Clackamas County Purchasing Division 10 days prior to coverage expiration.

7. Independent Contractor Status. The service or services to be rendered under this contract are those of an independent contractor. Agency is not an officer, employee or agent of the County as those terms are used in ORS 30.265.

8. Primary Coverage Clarification. Agency's coverage will be primary in the event of a loss that is the obligation of Agency's to indemnify pursuant to this Contract.
 9. Cross-Liability Clause. A cross-liability clause or separation of insured's condition will be included in all commercial general liability, professional liability, and errors and omissions policies required by this contract.
- C. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by Agency and County.

Modification of the contract shall be mandatory under the following circumstances:

1. A significant change, as determined by County, in programs content or scope of work as described in the contract or RFP for awarding of this contract.
 2. A change in any of the General or Special Provisions.
- D. Termination. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice, in writing or delivered by certified mail or in person.

The County may terminate this contract effective upon delivery of written notice to the Agency, or at such later date as may be established by the County, under any of the following conditions:

1. If County funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.
3. If any license or certificate required by law or regulation to be held by the Agency to provide the services required by this contract is for any reason denied, revoked, or not renewed.
4. If Agency fails to provide services or reports as specified by the County in this contract.
5. If Agency fails to comply with any requirements in this contract.

Contract parties hereto shall not be held responsible for delay or failure to perform hereunder when such delay or failure is due to fire, epidemic, strikes, disasters, hazardous weather conditions, public enemy, legal acts or public authorities, or delays or defaults caused by public carriers, which cannot reasonable be forecast or provided against.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

E. Oregon Public Contracting Provisions and Constitutional Limitations. Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this contract:

1. Agency shall:

- (a) Make payments promptly, as due, to all persons supplying to Agency labor or materials for the prosecution of the work provided for in this contract.
- (b) Pay all contributions or amounts due the Industrial Accident Fund from such Agency or subcontractor incurred in the performance of this agreement.
- (c) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (d) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

2. If Agency fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Agency or a subcontractor by any person in connection with this 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 Agency by reason of this agreement.

3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay: (a) for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours in any one day or 40 hours in any one week

when the work week is four consecutive days, Monday through Friday; and (b) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

In the case of contracts for personal services as described in ORS 279A.055, employees shall be paid at least time and one-half for all overtime worked in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC Section 201 to 209 from receiving overtime.

4. Agency shall promptly, as due, make payment to any person or partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention incident to sickness and injury to the employees of Agency, of all sums which Agency agrees to pay for the services and all moneys and sums that Agency collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
 5. Agency, if it is an employer of one or more workers subject to workers' compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. Agency shall maintain employer liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
 6. 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.
- F. Contract Personnel. Agency shall have, or secure, all personnel required in performing the work and services under this contract. Further, Agency specifically agrees that its agents or employees shall possess the experience, knowledge, and skills to qualify them individually for the particular duties they perform.
1. Agency shall maintain a documented system of personnel policies and procedures that shall include, but not be limited to, an orderly system for hiring, dismissal, promotion, layoff, salary increase, fringe benefits, vacation, salary classification plan, affirmative action and other related personnel practices. A copy of the policies and procedures shall be made available to County upon request.
 2. Agency shall assure that safe and healthy working conditions exist at all worksites in compliance with the Oregon Safe Employment Act and rules promulgated there under.

3. Agency's employees, volunteers or agents performing under this contract are not deemed to be employees of County in any manner whatsoever. Employees of Agency shall not be entitled to any other benefits except those provided by Agency. Agency is solely and entirely responsible for its acts and acts of its agents, employees or volunteers.
4. Agency shall maintain the following minimum standards with regard to wages and benefits for all employees:
 - a. All employees shall receive wages and benefits which are equal to the wages and benefits required by applicable state and federal laws.
 - b. Agency shall provide personnel administration based on merit principles and methods governing the appointment, promotion, transfer, layoff, removal and discipline of its employees, and other aspects of employment. All appointments and promotions shall be made on the basis of merit and fitness, as determined by a valid, reliable, competitive process.

G. Participant Rights

1. Client Confidentiality. All information as to personal facts and circumstances about clients obtained by the Agency shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her attorney, the responsible parent of a minor child, or his or her guardian except as required by other terms of this contract. Nothing prohibits the disclosure of information in summaries, statistical, or other form which does not identify particular individuals.

The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this contract. Confidentiality policies shall be applied to all requests from outside sources. The ADS, the Division, the Agency and subcontractor, if there is one, will share information as necessary to effectively serve mutual clients.

2. Grievance. Agency shall comply with County Client Grievance Procedure as follows:

Any person with a complaint regarding services delivered under this contract shall report it to the meal site manager who will get full details. The meal site manager shall notify Agency and County of the nature of the complaint. Agency shall either take prompt, appropriate, corrective action or shall promptly provide County with a factual explanation of the situation and potential solutions for resolution. County shall mediate all disputes as

necessary and shall notify the complainant of the response or corrective action resolving the complaint.

3. **Discrimination Prohibited.** It shall be a policy of the Agency that it shall not discriminate in admission, accessibility, treatment or employment in its programs, activities and facilities on the basis of race, creed, color, sex, age, ancestry, national origin, religion or disability. Agency, and any party with which it enters into formal agreements, will comply with all requirements imposed by and pursuant to the regulations of Title VI of the Civil Rights Act of 1964, as amended, and Section 504 of the Rehabilitation Act of 1973.

H. **Future Support.** The County makes no commitment of future support and assumes no obligation for future support of the activity contracted herein except as set forth in this contract.


- I. Integration. This contract contains the entire agreement between the County and the Agency and supersedes all prior written or oral discussions or agreements. This contract consists of four sections plus the following attachments which by this reference are incorporated herein:

Exhibit 1 Scope of Work and Performance Standards and Guidelines
Exhibit 2 Reporting Requirements
Exhibit 3 Budget and Units of Service
Exhibit 4 AGENCY Information

V. SIGNATURES

AGENCY

Compass Group USA, Inc., dba
BATEMAN


By _____
Magi Brettler
Name

Regional Vice President - Bateman
Title

4/7/2014
Date

3110 West Pinhook Rd. #201
Street Address

Lafayette, LA 70508
City/Zip

(337) 593-0433 (337) 593-0434
Phone Number Fax

56-1874931
Tax ID Number

61-170-1327
DUNS Number

CLACKAMAS COUNTY

Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

Signing on Behalf of the Board

Cindy Becker, Director
Health, Housing, & Human Services

Date

Exhibit 1
Scope of Work and Performance
Standards and Guidelines for Service

A. PURPOSE OF THE SERVICES

The purpose of this contract is the cooperation of both parties in providing the Older Americans Act funded Food Service for people in Clackamas County age 60 and older. The goal in providing these services is to assist with maintaining the above people in their own homes as long as practically possible.

B. DESCRIPTION OF SERVICES

FOOD SERVICE - produce and bulk deliver meals to 5 Senior Nutrition Program meal sites in Clackamas County (Estacada, Gladstone, Molalla, Oregon City, and Sandy). Each meal must contain at least 1/3 of the Dietary Reference Intakes (DRI) as established by the Food and Nutrition Board, National Research Council - National Academy of Science, for Male 70+ or Female 70+, whichever is greater. The newer DRIs include Recommended Dietary Allowances (RDA) for older adults.

C. PERFORMANCE STANDARDS

FOOD SERVICES

Objective: a. To produce and deliver contracted number of meals to specified COUNTY sites throughout the contract period.

Elements:

1. Agency submits each month's menu to County by the first day of the preceding month. Menus must meet the following standards:
 - a. Each meal must contain at least 1/3 of the Dietary Reference Intakes (DRI) as established by the Food and Nutrition Board, National Research Council - National Academy of Science, for Male 70+ or Female 70+, whichever is greater; and meet the Dietary Guidelines for Americans as issued January, 2010. (Milk is part of Site Management.) The use of computerized nutrient analysis software to assure meals are in compliance with nutritional requirements is strongly encouraged.
 - b. Meals must also meet the State of Oregon, Dept of Humans Services, Office of Aging and People with Disabilities, State Unit on Aging, targeted nutrient values as published in the Oregon Congregate & Home-Delivered Nutrition Program Standards.
<http://www.oregon.gov/dhs/spwpd/sua/docs/nu-prg-standards.pdf>

- c. The cycle for the cycle menu system must be at least nine weeks long.
- d. A Registered Dietitian (RD) must review and sign the menus to certify that they meet the one-third DRI. They should also incorporate the whole grains, fruits, vegetables and low-fat dairy products that meet the updated 2010 Dietary Guidelines for Americans.
- e. Menus should reflect the tastes and appetites of the current elderly population.
- f. Menus should incorporate a variety of foods and preparation methods with contrasts in color, texture, sizes, shapes, and flavors. Food items should not be repeated two days in a row, or on same day of consecutive weeks. Menus should reflect seasonal availability of fresh fruits and vegetables.
 - Butter or Margarine. Each meal shall contain one teaspoon of butter or fortified margarine.
 - Dessert. Dessert may be offered to increase the calorie or other required nutrient content of the meal. If provided, portion should be one-half cup per serving. For cookies, plan two small 2½" diameter or one large 4" diameter cookie. Cake piece should be at least 2" x 2".
 - Condiments and Garnishes. Condiments are to be used to compliment the menu. Such things are: mustard, catsup, salad dressing, lemon, cranberry sauce, tartar sauce, etc.
- g. All items must be specifically identified in the menu. Listing such things as "Fruit in Season", "Vegetable" or "Cookie" does not provide enough information. Each menu item should be easily identified by its name.
- h. A special meal should be planned for major holidays, such as Thanksgiving and Christmas. These meal dates will be coordinated with meal site staff. A special food and/or meal planned for lesser holidays, such as Valentine's Day and Mother's Day would also be encouraged.
- i. Menus should be served as written and approved. If changes are necessary, they must be of comparable nutrient value. Each change is to be recorded on the working and/or file copy of the menu and initialed and dated by a supervisor. Meal sites need to be informed of changes as soon as possible as they are required to post the menu.

Objective: b. To provide Special Diet Meals as ordered by each site.

Elements:

1. Menus shall be planned and meals available for the modified diets listed below:

- a. Uncalculated Diabetic. Eliminate items high in sugar by substituting products or recipes that use artificial sweeteners. The carbohydrate content of the meal should represent approximately 40% of the total calories.
- b. Moderate Sodium Restricted. Eliminate menu items or foods that are naturally high in sodium (not to exceed 1.2 grams per meal).
- c. Low Cholesterol. Eliminate menu items or foods that are naturally high in cholesterol and/or fat (not to exceed 100 mg per meal).

Site Managers are responsible for obtaining a written request for these meals from a participant's physician. Since meal site personnel cannot control what participants eat, all special diets have only moderate modifications. The responsibility to adhere to a special diet is the participant's alone.

Objective: c. To use standardized recipes and portion control.

Elements:

1. Recipes used by AGENCY should be adapted to the requirements of a Title III Senior Nutrition meal.
2. Recipes should be standardized for the kitchen, equipment, ingredients, and skills of personnel using them.
3. Recipes should be adjusted for yield based on portion size and the number of people being served that particular meal.
4. Food service employees must understand and be able to use standardized recipes and produce standard portions.

Objective: d. To procure food from sources that comply with all federal, state and local laws that relate to food production, manufacturing, packaging and labeling. No home-canned food or raw milk may be used. Donated food that meets the above standards may be used.

Objective: e. To comply with all federal, state and local laws and regulations pertaining to sanitation requirements and practices in food production, storage, transportation, and service.

Elements:

1. A sanitation inspection by a Registered Sanitarian from the State Health Division or local health department is required every six months for each production kitchen.

2. A copy of each inspection report is to be kept in a file, along with a written plan (including timelines) of any required corrective action, at the production kitchen, available for COUNTY representative visits.
3. AGENCY must establish and use sanitary procedures for packaging and transporting food from central kitchen to meal sites. This will include procedures for maintaining proper temperatures and cleaning and sanitizing all transport equipment.
4. Food temperatures shall be taken and recorded as the food is panned to leave the production area for transport. Records of these temperature checks shall be maintained in the AGENCY's files.
5. Oregon Nutrition Program Standards and Oregon Administrative Rules, Chapter 333, Food Sanitation Rules must be followed.

Objective: f. To employ qualified, trained personnel to assure satisfactory performance.

Elements:

1. AGENCY must have at least one employee at each production kitchen that has completed a community college-level food service sanitation course.
2. AGENCY must have a new employee orientation.
3. AGENCY must have a training plan that includes training for employees and supervisory staff.

Exhibit 2 Reporting Requirements

A. INVOICES

Agency shall submit invoices in a format designated or approved by County. These invoices are due by the 10th working day of the subsequent month. The County shall make payment to Agency within 21 days of receipt of each invoice submitted.

Invoices for units of service provided shall bear the Agency's name and address and be signed by an authorized representative of Agency. The authorized signator shall verify that the services purchased have been performed. Invoices may be submitted electronically via e-mail as an attachment.

Agency shall submit a monthly financial summary which will itemize the number of meals bulk delivered to each site from the central kitchen.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should the Agency fail to submit reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, the County shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until the Agency submits required reports, performs required services, or establishes to the County's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence of the Agency.

Agency shall return to the County all funds which were expended in violation of this contract.

B. AUDIT/MONITORING

Agency shall permit authorized representatives of the County and other applicable audit agencies of the state or federal government, to review the records of the Agency in order to satisfy program audit and evaluation purposes deemed necessary by the County and permitted under law.

Agency agrees to participate with the County in any evaluation project or performance report, as designated by the County or applicable state or federal agency, and to make available all information required by any such evaluation process.

C. ADMINISTRATION

The County Project Manager shall be the ADS Contract Specialist or any other person as shall be designated in writing by the Director of the Social Services Division. The Project Manager is authorized to approve invoices, make site inspections, and be the County representative in matters related to this contract.

The Agency shall designate one or more representatives in writing who shall be authorized to sign the invoices and accompanying activity reports.

**Exhibit 3
Budget and Units of Service**

A. BUDGET

The County's payment to the Agency will be based on the funding amounts specified and provision of the units of service according to this Exhibit. The per meal rate will be adjusted on a quarterly basis to reflect the projected fiscal year end total meals provided. The projection will be calculated by both the Agency and the County and agreed upon.

The per meal rate will be calculated based on the following numbers

No. of Meals	Rate/Meal	Maximum III-C1 Funds	Maximum III-C2 Funds	Maximum NSIP	Maximum Dollars
84,001 to 87,000	\$ 3.791	\$127,441	\$128,208	\$74,168	\$329,817
87,001 to 90,000	\$ 3.676	\$127,955	\$128,725	\$74,160	\$330,840
90,001 to 93,000	\$ 3.561	\$127,955	\$128,725	\$74,493	\$331,173
93,001 to 96,000	\$ 3.445	\$127,895	\$128,665	\$74,160	\$330,720
96,001 to 99,000	\$ 3.330	\$127,371	\$128,138	\$74,161	\$329,670
99,001 to 102,000	\$ 3.219	\$126,705	\$127,468	\$74,164	\$328,338
102,001 to 105,000	\$ 3.103	\$125,449	\$126,204	\$74,162	\$325,815
105,001 to 108,000	\$ 3.031	\$126,212	\$126,972	\$74,164	\$327,348
108,001 to 111,000	\$ 2.988	\$127,876	\$128,645	\$75,147	\$331,668
111,001 to 114,000	\$ 2.946	\$130,445	\$131,230	\$74,168	\$335,844
114,001 to 117,000	\$ 2.905	\$132,461	\$133,258	\$74,166	\$339,885
117,001 to 120,000	\$ 2.862	\$134,236	\$135,044	\$74,160	\$343,440
121,700 (at the 120,001 + rate.)	\$ 2.819	\$134,051	\$134,858	\$74,164	\$343,072

Agency agrees to provide matching funds for the service provision specified in this Exhibit as follows:

Match shall be figured at 11.12% of the OAA III-C funds contracted. The Agency match will be Regional Director's time in contract coordination. No match is required for NSIP funds.

The match requirement amount will vary based on the total III-C dollars paid out. See table below

Maximum Meals for Rate	III-C Per Meal Rate	Total III-C Dollars	Match Required
87,000	\$2.939	\$255,650	\$28,428
90,000	\$2.852	\$256,680	\$28,543
93,000	\$2.760	\$256,680	\$28,543
96,000	\$2.673	\$256,560	\$28,529
99,000	\$2.581	\$255,509	\$28,413
102,000	\$2.492	\$254,174	\$28,264
105,000	\$2.397	\$251,654	\$27,984
108,000	\$2.344	\$253,184	\$28,154
111,000	\$2.311	\$256,521	\$28,525
114,000	\$2.295	\$261,676	\$29,098
117,000	\$2.271	\$265,719	\$29,548
120,000	\$2.244	\$269,280	\$29,944
121,700	\$2.210	\$268,908	\$29,903

The following is a breakdown of annual meal deliveries for rate calculation for the first quarter of FY14/15:

MEAL SITE	No. MEALS	RATE	TOTAL
ESTACADA	15,000	\$3.445	\$51,675
GLADSTONE	9,800	\$3.445	\$33,761
MOLALLA	16,700	\$3.445	\$57,532
PIONEER	37,000	\$3.445	\$127,465
SANDY	17,500	\$3.445	\$60,288
Totals	96,000		\$330,720

**Exhibit 4
AGENCY Information**

AGENCY PROFILE

1. AGENCY IDENTIFICATION: 2. IRS/STATE NONPROFIT NUMBER:

Compass Group USA, Inc., by and through
its Bateman Division
Legal Name

56-1874931

2400 Yorkmont Drive
Address

3. Authorized Official

Mailing Address Mailing Zip
Bateman

Name: Magi Brettler
Title: Regional Vice Pres. -

Charlotte NC 28217
City State Zip

Address: 3110 West Pinhook Road
Suite 201

(704) 328-4334
Phone Number Fax

Lafayette, LA 70508
Phone: (337) 593-0433

4. TYPE OF AGENCY: Public - for Profit Corporation
5. TYPE OF PROGRAM: Senior Nutrition Provider
6. AGENCY BOARD OF DIRECTORS:

Tom Ondrof
Anthony G. Shearer
Palmer Brown

Frequency of Meetings: Annually

7. AGENCY INFORMATION:
The following have been approved and adopted by the Agency's Board of Directors:

	<u>YES</u>	<u>NO</u>	Approved Usage Certificate	<u>YES</u>	<u>NO</u>
Written Personnel Policies	X		Fire Marshal	X	
Staff Job Descriptions	X		Co. Health	X	
Written Benefits Policies	X		County Zone	N/A	
Affirmative Action Plan	X				
Nondiscrimination Plan	X				
State/Federal Certifications	X				

Current Certificate of Incorporation for the State of Oregon:

Date: January 17, 1995

Last Total Program Audit:

Date: December 31, 2013

Types and Amounts of Insurance Held:

Producer – Willis of North Carolina, Inc.

- Companies Affording Coverage:
- A. National Union Fire Ins. Co. of Pittsburg
 - B. National Union Ins. Co. of Pittsburg
 - C. ACE American Insurance Co.

General Liability:	General Aggregate	\$10,000,000
	Products-Comp/Op Agg.	\$1,000,000
	Personal & Adv. Injury	\$1,000,000
	Each Occurrence	\$1,000,000

Automobile Liability:	Combined Single Limit	\$5,000,000
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Excess Liability	Other than Umbrella - each occurrence	\$10,000,000
	aggregate	\$10,000,000

Workers Comp and Employers' Liability

Statutory Limits

Each Accident	\$2,000,000
Disease - Policy Limit	\$2,000,000
Disease - Each Employee	\$2,000,000

8. AGENCY CERTIFICATION STATEMENT: I certify that to the best of my knowledge, the information contained in the Agency Profile is accurate and complete and that I have the legal authority to commit this Agency to a contractual agreement.



 Signature, Magi Brettler

Regional Vice Pres. - Bateman

 Title

4/7/2014

 Date

COPY

April 24, 2014

Board of County Commissioner
Clackamas County

Members of the Board:

**Approval of an Amendment #01 to Intergovernmental Agreement with
Washington County, for the Cities Readiness Initiative Program**

Purpose/Outcomes	Clackamas County H3S has been named to receive funding for the Cities Readiness Initiative (CRI) Program administered by Washington County.
Dollar Amount and Fiscal Impact	Contract maximum value is \$11,813.00 + \$6000= \$17,813.00
Funding Source	No County General Funds are involved.
Safety Impact	The ability of large urban areas to be ready for all-hazards events.
Duration	Effective July 01, 2013 and terminates on June 30, 2014
Previous Board Action	The Board last reviewed and approved this agreement on June 27, 2013 agenda item 062713-A11.
Contact Person	Dana Lord, Public Health Director – 503-655-8405
Contract No.	6272

BACKGROUND:

The Public Health Division of the Health, Housing & Human Services Department requests the approval of Amendment #1 to the Intergovernmental Agreement with Washington County for the Cities in Readiness Initiative Program. CRI is a nationwide program designed to help large urban areas create plans to administer medicine or chemical agents for the purpose of disease prevention to 100% of their populations. The State of Oregon contracts these funds to Washington County who administers this program on the State's behalf. The Portland Metropolitan CRI program is in its ninth year and the region includes Clackamas, Clark, Columbia, Multnomah, Skamania, Washington and Yamhill counties.

Amendment #01 adds Clackamas County DUNS# (Data Universal Numbering System) and the CFDA # (Catalog of Federal Domestic Assistance). The agreement is increased by \$6,000.00 bringing the maximum agreement value to \$17,813.00. Attachment A - Statement of Work and Payment Terms is replaced in its entirety with these revisions. The revisions are to bring the agreement into compliance with federal sub-recipient regulations regarding pass through funds. This Amendment is effective upon signature and continues through June 30, 2014. This contract has been reviewed by County Counsel on June 17, 2013.

RECOMMENDATION:

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

Respectfully submitted,


Cindy Becker, Director

AMENDMENT TO AGREEMENT

This AMENDMENT TO AGREEMENT is entered into by and between Washington County, a political subdivision of the State of Oregon, herein "County" and **Clackamas County** herein "Contractor".

WITNESSETH

WHEREAS, on the 1st day of July, 2013 Contractor and County entered into an Agreement, herein "contract" whereby Contractor would perform specified services for the Washington County community and County would fund a portion of said services; and

WHEREAS, pursuant to Section 8, the contract may be amended, provided both parties agree in writing;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained therein, the contract of the 1st day of July, 2013 is amended as follows:

1. Requirement to provide Contractor DUNS (Data Universal Numbering System) number is added.
Please provide DUNS # here: 096992656
2. CFDA (Catalog of Federal Domestic Assistance) number is added for services provided.
3. Compensation is increased in the amount of \$6,000.
4. Attachment A reflects these changes and is replaced in its entirety by the attached.

-continued-

Sr. Deputy County Administrator
for Washington County

Authorized Agency Signature

Printed Name and Title

Clackamas County
Agency

2051 Kaen Rd, Oregon City, OR
Address 97045

Recording Secretary

Phone Number

Date of Execution

Date of Signature

4. Attachment E, the 2013-15 Intergovernmental Agreement Number 142031 between Washington County and OHA for the Financing of Public Health Services, is hereby included and made a part of this contract.
5. All other terms and conditions except as expressly noted herein shall remain as originally written and in full force and effect.

Attachment A
Statement of Work and Payment Terms
2013-2014

PURPOSE: Clackamas County Health, Housing and Human Services (CCHHS) has been named to receive funding for the Cities Readiness Initiative (CRI) program which is administered by Washington County. The requirements in this Statement of Work reflect the requirements set by the Oregon Health Authority in the CRI Program Element 02 (PE-02) for Washington County (Coordinating LPHA) and all CRI local health departments (LHD).

BACKGROUND: CRI is a nationwide program designed to ready large urban areas for medical countermeasure distribution and dispensing (MCMDD) for all-hazards events. This includes the ability of jurisdictions to develop capabilities for U.S. cities to respond to a large-scale biologic attack, with anthrax as the primary threat consideration. The Portland Metropolitan CRI program is in its ninth year and the region includes Clackamas, Clark, Columbia, Multnomah, Skamania, Washington and Yamhill counties.

Funding for the CRI program flows from the Centers for Disease Control and Prevention (CDC) to the Oregon Health Authority (OHA) to Washington County. Washington County administers and houses the CRI program and staff. Although housed in Washington County, the CRI staff report to the public health preparedness coordinators, public health administrators and health officers in each of the region's counties.

Program Element #02: Cities Readiness Initiative (CRI) Program

1. **Description.** Funds provided to Local Public Health Authorities (LPHA) under this Agreement for the Cities Readiness Initiative (CRI) Program may only be used in accordance with, and subject to, the requirements and limitations set forth below. This Agreement is between the Oregon Health Authority (OHA) and Washington County Local Public Health Authority (Coordinating LPHA). Requirements for each Oregon county in the CRI Region (CRI LPHAs) are established through an intergovernmental agreement (IGA) or contract with Coordinating LPHA. The CRI Program focuses on plans and procedures that support medical countermeasure distribution and dispensing for all-hazards events including the capability to respond to a large-scale biologic attack with anthrax as the primary threat consideration.
2. **Definitions Specific to CRI Programs.**
 - a. Annual Technical Assistance Review (TAR): The yearly evaluation of an LPHA's CRI Program materials, products, plans, exercises, and activities conducted by a team of federal, state, and local preparedness staff using a worksheet developed by federal and state program partners.
 - b. Centers for Disease Control and Prevention (CDC): The nation's lead public health agency, which is one of the major operating components of the U.S. Department of Health and Human Services.
 - c. Department of Homeland Security: The federal agency responsible for protecting the United States territory from terrorist attacks and responding to natural disasters.
 - d. Division of the Strategic National Stockpile (DSNS): The CDC program that manages the Strategic National Stockpile Program

- e. DSNS Drills: A set of eight drills, divided into two suites, developed by the RAND Corporation for the CDC's Division of the Strategic National Stockpile. The first suite consists of three drills that address decision-making processes: a resource allocation game, a distribution tool intended to be used as a tabletop exercise, and a decision-making evaluation tool. The second suite of drills includes staff call down, site activation, facility set-up, pick-list generation, and dispensing and/or modeling of throughput.
- f. DSNS Local Technical Assistance Review Tool: A worksheet developed by federal and state program partners to evaluate and score local mass dispensing plans and capabilities.
- g. Capability Performance Measure Analysis: An assessment of the difference between prescribed CDC capabilities organized by function and current local capabilities using an evaluation tool developed by the HSPRP.
- h. Homeland Security Exercise and Evaluation Program (HSEEP): The Homeland Security Exercise and Evaluation Program is a capabilities and performance-based program that provides a standardized policy, methodology, and language for designing, developing, conducting, and evaluating all exercises.
- i. Local Public Health Authority (LPHA): A county government or a health district created under ORS 431.414 or a person or agency that a county or health district has contracted with to act as the local public health authority.
- j. Mass: A large but non-specific amount or number.
- k. National Incident Management System (NIMS): The federal Department of Homeland Security's system for integrating effective practices in emergency preparedness and response into a comprehensive national framework for incident management. NIMS enables emergency responders at all levels and in different disciplines to effectively manage incidents no matter the cause, size or complexity. More information can be viewed at <http://www.fema.gov/emergency/nims/index.shtm>.
- l. Planned Responder: Community organizations with a written or implied role in the response to a public health emergency (e.g. hospitals and First Responders).
- m. Point of Dispensing (POD) Site: A site such as a high school gymnasium at which prophylactic medications are dispensed to the public.
- n. Portland Metro Cities Readiness Initiative Program Area (CRI): The Cities Readiness Initiative is a CDC program that aids cities and metropolitan areas in increasing their capacity to receive and dispense medicines and medical supplies during a large-scale public health emergency such as a bioterrorism attack. The counties forming the Portland CRI Program Area are Clackamas, Washington, Multnomah, Columbia, and Yamhill LPHAs in Oregon, and Clark and Skamania LPHAs in Washington State. Washington State is responsible for all CRI activities and funding for the Clark County LPHA and Skamania County LPHA. Additional information about the CRI Program and the cooperative agreement "Guidance for Public Health Emergency Preparedness" is viewable at <http://www.cdc.gov/phpr/coopagreement.htm>.

- o. Prophylaxis: Measures designed to preserve the health of an individual or society and prevent the spread of disease.
- p. Push Partner: A community organization that is trained, willing, and able to assist in a public health emergency.
- q. Push Partner Registry: A registry of community organizations that are trained, willing, and able to assist in a public health emergency.
- r. Public Health Preparedness Capabilities: A national set of standards, created by the CDC, for public health preparedness capability-based planning that will assist state and local planners in identifying gaps in preparedness, determining the specific jurisdictional priorities, and developing plans for building and sustaining response capabilities.
- s. Strategic National Stockpile (SNS): A CDC program developed to provide: 1.) rapid delivery of a broad spectrum of pharmaceuticals, medical supplies, and equipment for an ill-defined threat in the early hours of an event; 2.) shipments of specific items when a specific threat is known; and 3.) technical assistance to distribute SNS material. SNS program support includes the 12-hour Push Pack, stockpile and vendor managed inventory, vaccines, federal buying power, and Federal Medical Stations.

3. General Requirements. All services and activities supported in whole or in part with funds provided under this Agreement shall be delivered or conducted in accordance with the following requirements:

- a. Non-Supplantation. Funds provided under this Agreement shall not be used to supplant state, local, other non-federal, or other federal funds.
- b. Audit Requirements. In accordance with federal guidance, each county receiving funds shall audit its expenditures of CRI Program funding not less than once every two years. Such audits shall be conducted by an entity independent of the county and in accordance with the federal Office of Management and Budget Circular A-133. Audit reports shall be sent to the OHA, who will provide them to the CDC. Failure to conduct an audit or expenditures made not in accordance with the CRI Program guidance and grants management policy may result in a requirement to repay funds to the federal treasury or the withholding of funds.
- c. CRI Coordinator. CRI LPHAs, shall identify a CRI Coordinator. The CRI Coordinator will be the Oregon Health Authority's chief point of contact for CRI Program.

4. General Budget and Expense Reporting.

- a. Example CRI Budget documents are set forth as Attachment 1 to this PE and incorporated herein by this reference. They are also available for download as an Excel[®] file from the HAN document library at: <https://oregonhealthnetwork.org/default.aspx>. The Coordinating LPHA shall meet the following budget reporting requirements using the aforementioned document:
 - i. Submit a budget to OHA by October 31 of each year using actual award amounts and detailing expected costs of operating the CRI program during the period of July 1 through June 30 of each year. The budget shall include budgets from each CRI LPHA detailing expected costs associated with the CRI program and matching their allocation.

- ii. Coordinating LPHA shall submit to OHA by February 15 of each year, the actual expense-to-budget report for the period of July 1, through December 31.
 - iii. Coordinating LPHA shall provide to the OHA by August 31 of each year, the actual expense-to-budget report for the period of July 1 through June 30. The budget and expense to budget Excel file set forth in Attachment 1 shall be the only form used to satisfy this requirement. All equipment purchases of \$5,000 or more that use CRI funds will be identified in this budget report.
- b. The award of funds under this Agreement to the Coordinating LPHA shall include funds to assist in the implementation of the CRI Program requirements as outlined in this Agreement throughout the CRI Program Area. Coordinating LPHA shall use a portion of the CRI award to fund a CRI Coordinator position who will work under guidance from the CRI LPHAs.
 - c. Coordinating LPHA shall hold, at minimum, quarterly CRI Team meetings that include, at minimum, the CRI Program Coordinator, a representative from each CRI LPHA and the State SNS Coordinator.
 - d. Coordinating LPHA will finalize an IGA, or contract, with each CRI LPHA that describes how funding will be provided and includes the requirements and performance measures that must be met.
 - e. Coordinating LPHA will reallocate any unspent funds awarded to a CRI LPHA that have not been spent or obligated by 60 days prior to the end of the grant period.
 - f. Coordinating LPHA will return to OHA for reallocation to projects that support CRI objectives any funds not spent or obligated by 45 days prior to end of the grant period.
 - g. Intergovernmental Agreement (IGA) or Contract. Coordinating LPHA will develop an IGA, or contract, between itself and all Oregon CRI LPHAs. The IGA, or contract, will incorporate all requirements of Program Element 02 CRI program measures.

5. CRI Work Plan and Other Reporting Requirements.

- a. Coordinating LPHA shall submit a work plan to the State SNS Coordinator and CRI LPHAs by August 15 that presents objectives and related activities, identifies responsible parties, and establishes timelines for the CRI Program Area. The work plan shall be created with input from all CRI LPHA and approved by the State SNS Program, and must include objectives to:
 - i. Enable each CRI LPHA to achieve a local TAR score of 69 or higher by providing the documentation required in the TAR;
 - ii. Enable each CRI LPHA to meet POD Standards
 - iii. Enable each CRI LPHA to meet exercise requirements; and
 - iv. Provide programmatic and fiscal oversight responsibilities.

- v. Engage with and assist each LHD in completing the applicable sections of the capability performance measure analysis using an evaluation tool developed by the HSPRP.
- b. Coordinating LPHA shall submit semi-annual one-page summary reports from each CRI LPHA, and the CRI program, to the State SNS Coordinator. These reports shall provide updates on CRI Program activities, and are due by February 15 and August 31.
- c. Coordinating LPHA shall provide other reports about the CRI Program as the OHA may reasonably request from time to time.
- d. Annual Technical Assistance Review (TAR). Each CRI LPHA shall coordinate an annual TAR and include, at a minimum, the following invitees: local CRI program representative, local law enforcement, local emergency management, and the OHA. The local TAR tool shall serve as the evaluation tool. Completed local TAR tools and supporting documentation for each TAR must be submitted to the State SNS Coordinator 21 days prior to review date. The TAR tool review meeting is to be completed prior to April 1 of each year.

Performance Measure 0.1 Each CRI LPHA shall satisfactorily complete TAR tool, submit supporting documents to State SNS Coordinator and conduct the review meeting before April 1 each year. A minimum score of 69 must be achieved.

- e. Exercise Requirements. Each CRI LPHA shall develop and conduct an exercise program that tests medical countermeasure dispensing related emergency response plans and adheres to HSEEP standards including an after action report, improvement plan and exercise evaluation guide. Each CRI LPHA must complete the following exercises:

Three of the eight DSNS drills by April 1, unless given specific permission for extension by SNS Coordinator. Documentation of the three required drills must be submitted to the SNS and CRI Program Coordinators no later than April 15, unless given specific permission for extension by SNS Coordinator, and must consist of an after action report for the Decision Making Tool and RSS Supply Chain Management Games and the standardized data collection tools for all other drills.

Performance Measure 0.2 Each CRI LPHA shall satisfactorily execute and submit appropriate documentation to the Coordinating LPHA for 3 different DSNS drills before April 1, unless given specific permission for extension by SNS Coordinator, each year. Coordinating LPHA will submit to SNS Coordinator for submission to CDC through web based portal. These drills can be used to meet the requirements set forth in PM 1.3 and 8.5.

6. **Public Health Preparedness Capabilities Requirements:** The capabilities, functions and tasks below match the corresponding capabilities, functions, and tasks in the Public Health Preparedness Capabilities which can be found at <http://www.cdc.gov/phpr/capabilities/>. Where possible the CRI Program will support the CDC and Oregon Hospital Preparedness Program priority capabilities which can be found in Program Element #12 "Public Health Emergency Preparedness Program (PHEP)" to the current Public Health Financial Assistance Agreement series between LPHAs and the Oregon Health Authority (OHA).

Capability 1: Community Preparedness.

- **Function 2: Build community partnerships to support health preparedness.**
- **Task 2.** Create and implement strategies for ongoing engagement with community partners who may be able to provide services to mitigate identified public health threats or incidents.

Performance Measure 1.1 By June 30, each CRI LPHA will provide a list of community partner agencies enrolled in the Push Partner Registry that shows an increased membership over the last 12 month period. This list will be organized by type (planned responder, vulnerable population, private business, etc.) and size rather than formal organization names and will be a list through which public health messages can be disseminated.

- **Function 3: Engage with community organizations to foster public health, medical and mental/behavioral health social networks.**
- **Task 1.** CRI LPHAs shall develop all-hazard messages to be disseminated through Push Partner agencies to their constituencies.

Performance Measure 1.2 CRI LPHAs shall, at least once annually, disseminate a preparedness or public health message and include a request for an update of contact information to the partners identified in Performance Measure (PM) 1.1.

- **Function 4: Coordinate training or guidance to ensure community engagement in preparedness efforts.**
- **Task 2.** Promote training to community partners that may have a supporting role to public health, medical, and mental/ behavioral health sectors.

Performance Measure 1.3 CRI LPHAs shall, at least once annually, offer a Push Partner orientation for new Push Partners. This can be met with regionally coordinated trainings.

Capability 8: Medical Countermeasure (MCM) Dispensing.

- **Function 1: Identify and initiate medical countermeasure dispensing strategies.**
- **Task 2.** Prior to an incident, and if applicable during an incident, engage private sector, local, state, regional, and federal partners, as appropriate to the incident, to identify and fill required response roles.

Performance Measure 8.1 CRI LPHAs shall, at least once annually, provide training for POD management teams. This can be met with regionally coordinated trainings.

- **Function 2: Receive Medical Countermeasures.** Identify dispensing sites and/or intermediary distribution sites and prepare these modalities to receive medical countermeasures in a time frame applicable to the agent or exposure.

- **Task 3.** Identify and notify any intermediary distribution sites based on the needs of the incident.

Performance Measure 8.4 By June 30, conduct an activation drill for public and/or private (Push Partner) PODs. If you want to use this PM to meet one of the 3 required drills, you must complete prior to April 1, unless given specific permission for extension by SNS Coordinator.

Performance Measure 8.5 By April 1, each CRI LPHA shall submit updated POD Standards data collection sheet that includes all public PODs and Push Partner Registry numbers required to serve 100% of the population. Data collection sheet will be provided by OHA.

- **Task 3.** If indicated by the incident, implement mechanisms for providing medical countermeasures for public health responders, critical infrastructure personnel, and their families, if applicable.

Performance Measure 8.6 CRI LPHAs shall annually provide update to CRI Coordinator on progress toward CRI regional goal of enrolling 80% of identified Planned Responders in Push Partner Registry.

- **Task 5.** Inform public of dispensing operations including locations, time period of availability, and method of delivery.

Performance Measure 8.7 CRI LPHAs shall, at least once annually, offer training for Public Information Officers, or people who may hold that role in an emergency, in medical countermeasure dispensing that meets response and TAR requirements and improves the ability to provide effective messages regionally. This can be met with a regionally coordinated training.

- **Function 4: Dispense medical countermeasures to identified population.**
- **Task 2.** Screen and triage individuals to determine which medical countermeasure is appropriate to dispense to individuals if more than one type or subset of medical countermeasure is being provided at the site.

Performance Measure 8.8 By June 30, CRI LPHAs shall implement web-based screening and develop SOPs for receiving the output from the tool at PODs.

Capability 9: Medical Materiel Management and Distribution

- **Function 1: Direct and activate medical materiel management and distribution.**
- **Task 1.** Prior to an incident, identify receiving sites for responses of varying sizes and durations.

Performance Measure 9.2 By June 30, each CRI LPHA shall identify and train an initial cadre of warehouse staff on warehouse expectations in a large medical countermeasures event and, if appropriate, how to use the inventory management system.

7. **Contingent Emergency Response Funding:** Such funding is subject to restrictions imposed by CDC at the time of the emergency and would provide funding under circumstances when a delay in award would result in serious injury or other adverse impact to the public.

Since the funding is contingent upon Congressional appropriations, whether contingent emergency response funding awards can be made will depend upon the facts and circumstances that exist at the time of the emergency; the particular appropriation from which the awards would be made, including whether it contains limitations on its use; authorities for implementation; or other relevant factors. No activities are specified for this authorization at this time.

COMPENSATION TERMS: Washington County agrees to pay CCHHHS a maximum of \$17,813 between July 1, 2013 and June 30, 2014. Any adjustments to the final grant funds will be reflected in an amendment to this IGA.

Please submit invoices to the following:

Adrienne Donner
Washington County Dept. of Health and Human Services
155 North First Avenue, MS-4
Hillsboro, OR 97124
Adrienne_Donner@co.washington.or.us

If CCHHHS does not spend or obligate its award 60 days prior to June 30, 2014 (April 30, 2014), the unspent funds will be retained by Washington County for reallocation.

CFDA # 93.069 – Public Health Emergency Preparedness

April 24, 2014

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of 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	Replaces existing IGA for five years, to May 1, 2019. Aligns IGA termination with current agreement for emergency ambulance services.
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.
Safety Impact	Integration of emergency medical services promotes public safety.
Duration	Five years
Previous Board Action/Review	IGA approved by Board of Commissioners July 27, 2006 and extended to May 1, 2014. Previous similar IGA approved October 7, 2004.
Contact Person	Richard Swift, H3S, 503-650-5694 or Larry MacDaniels, 503-655-8256

BACKGROUND:

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 May 1, 2019, unless extended by mutual agreement of the parties. It has been reviewed and approved by County Counsel.

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,

A handwritten signature in black ink, appearing to read 'C. Becker' with a stylized flourish at the end.

Cindy Becker, Director

**INTERGOVERNMENTAL AGREEMENT for
ADVANCED LIFE SUPPORT
EMERGENCY MEDICAL SYSTEM
INTEGRATION**

THIS AGREEMENT is made and entered into by and between Clackamas County, hereinafter referred to as "County," and City of Lake Oswego, hereinafter referred to as "Agency," which are political subdivisions of the State of Oregon.

WITNESSETH:

WHEREAS, Oregon law requires counties to develop a plan relating to the need for coordination of ambulance services and to establish ambulance service areas (ASAs),

WHEREAS, Clackamas County adopted an Ambulance Service Area Plan on July 12, 2012, and the Oregon Health Division approved the Plan, and

WHEREAS, said Ambulance Service Plan established the County's desire to encourage effective partnerships in the emergency medical services system, recognizing the contribution of advanced life support (ALS) first response services delivered by fire service agencies, and regulating those services, and

WHEREAS, the County and the Agency have determined that an overall system design that considers an integrated advanced life support system provides the best opportunity for improving patient outcomes, reducing unnecessarily duplicated resources within the emergency medical services (EMS system), absorbing growth in call volume and population, lowering cost, and meeting performance standards, and

WHEREAS, the Agency's contractual commitment to meet response time standards in the delivery of medical first response services will allow a reduction in ambulance response time requirements, thereby generating anticipated cost savings which will be shared with Agency in order to compensate it for a portion of the costs it bears for providing medical first response services, and

WHEREAS the County recognizes the importance of having uniform agreements between it and multiple fire service agencies within the County for ALS services integrated into the ambulance response system, and

WHEREAS, it is in the public interest for the Agency and the County to enter into this agreement, the Agency and the County hereby agree as follows.

1. DEFINITIONS

- 1.1. "Ambulance Provider" or "Ambulance Service Provider" means a licensed ambulance service that responds to 9-1-1 dispatched calls or provides pre-arranged non-emergency transfers or emergency or non-emergency inter-facility transfers.

- 1.2. "ALS Unit" means an ambulance or fire vehicle staffed and equipped to provide advanced life support.
- 1.3. "Contract Service Area" means the area within the Clackamas Ambulance Service Area that is either within the geographical limits of the Agency, or is an area outside the Agency's geographical limits in which it has agreed to provide emergency medical response services.
- 1.4. "Contractor" means the entity with which County has entered a contract as the exclusive provider of emergency ground ambulance service within the Clackamas ASA. Contractor is not a Participating Provider.
- 1.5. "Coordinated Zone" means an ambulance response time zone where a fire agency which is a Participating Provider has agreed with the County to provide emergency medical response meeting the County's response time standards.
- 1.6. "Cost Savings" means the expense which the Contractor is able to avoid because of the reduction of staffed ambulance units made possible by the Participating Providers' services pursuant to intergovernmental agreement with the County.
- 1.7. "Emergency Call" means a Priority 1 Call or a Priority 2 Call.
- 1.8. "Hardship Relief" means that portion of the Cost Savings that is allocated and approved by the County for payment of the ambulance bills of Contractor's customers who are unable to pay their bills due to financial hardship.
- 1.9. "Participating Providers" refers to those fire service agencies (fire districts or fire departments) with a contractual agreement with County that allows the County to use the fire agency to modify Contractor's ambulance response time requirements. Agency becomes a Participating Provider by entering this intergovernmental agreement.
- 1.10. "Priority 1 Call" means a life-threatening emergency that would be identified under the Medical Priority Dispatch System (MPDS) as a Charlie, Delta, or Echo call. Certain types of Bravo calls may also be designated by the Emergency Medical Services Medical Director (EMSMD) as Priority 1 calls.
- 1.11. "Priority 2 Call" means a non-life threatening emergency that would be identified under the MPDS as an Alpha or Bravo call.
- 1.12. "Priority 3 Call" means a non-emergency call, or an emergency transport from a healthcare facility that has clinical personnel and emergency equipment available. A Priority 3 call would be identified under the MPDS as either an Omega call or a 33 call. Some MPDS 33 calls have a priority lower than Priority 3.
- 1.13. "System Enhancement" means any of the following, in such proportion as is determined by the County after consideration of priority recommendations made by the Participating Providers: reduction of rates for ambulance service, hardship relief for customers unable to pay ambulance service bills, emergency medical equipment, emergency medical service-related education, and emergency medical service-related research and development.

2. GENERAL RESPONSIBILITIES AND DUTIES OF AGENCY

- 2.1. SERVICES PROVIDED. Agency shall furnish to County the services, equipment, and materials hereinafter set forth, including first response paramedic services, in accordance with adopted medical protocols, within the Contract Service Area. Agency shall:
- 2.1.1. Respond to all calls for emergency medical assistance within its service area received from a 9-1-1 dispatch center.
 - 2.1.2. Employ and manage field personnel (personnel performing services shall remain employees of Agency, which shall bear all responsibility for wages, benefits and workers' compensation coverage).
 - 2.1.3. Provide or contract for employee inservice training in accordance with state and local guidelines.
 - 2.1.4. Provide for all maintenance of, vehicles, on-board equipment, and facilities used in performance of the work herein.
 - 2.1.5. Furnish all fuel, lubricants, repairs, initial supply inventory and all supplies (except those supplies replaced by ambulance Contractor).
 - 2.1.6. Develop, negotiate, and maintain good working relationships with other health care provider organizations and personnel.
 - 2.1.7. Participate fully in the County quality improvement process, provide special training to personnel found in need of special assistance in specific skill or knowledge areas.
 - 2.1.8. Maintain state and local vehicle permits, licenses and personnel certifications.
 - 2.1.9. Cause County Emergency Medical Services Medical Director (EMSMD) and agency medical director policies to be properly implemented in the field. Agencies shall take all reasonable steps to ensure that knowledge gained during the quality improvement process is routinely translated into improved field performance by way of inservice training, amendments to standard operating guidelines, newsletters, new employee orientation and other appropriate procedures.
 - 2.1.10. The services provided by Agency under this Agreement do not include ambulance transport. Ambulance transport may be offered (1) as a safety net when local ambulance resources are exhausted, (2) in the event of a declared disaster or mass casualty incident, and (3) as a subcontractor of Contractor.
- 2.2. MEDICAL OVERSIGHT. Agency agrees to participate with the County EMSMD to regulate services within the service area. Agency may continue to receive medical direction from a physician that it may designate. Agency's medical director will work closely with the EMSMD to integrate and improve out-of-hospital medical care in the area. The Agency and its medical director will participate in emergency physician's advisory board (EPAB) to coordinate medical director services.
- 2.3. PROTOCOLS. The Agency will use the regional protocols adopted by the Protocol Development Committee and approved by the EMSMD.

- 2.4. RESPONSE REQUIREMENTS. Agency will meet or exceed the response times set forth in section four (4) of this Agreement.
- 2.5. DATA INTEGRATION. Participating Providers and the County will work cooperatively to establish uniform county data points and other electronic data sets, and to establish an integrated data reporting system and integrated data cache for the County.
- 2.6. TRAINING, CERTIFICATION AND STAFFING. Minimum training and certification requirements for personnel shall be at least equal to those imposed on the Contractor. Each first response vehicle used to provide services shall be staffed with a minimum of one EMT-Basic and one Paramedic and be equipped as an ALS unit except as otherwise provided herein.
 - 2.6.1. First response vehicles used by Agency to provide services under this agreement may be staffed by one Paramedic, without an accompanying EMT-Basic, where the County has given prior written approval for a single-paramedic car response program.
- 2.7. PRIORITY DISPATCH. Agency will cooperate with the implementation of protocols for a Medical Priority Dispatch System (MPDS), including modification of response time requirements.

3. COMPENSATION.

- 3.1. In consideration of the services, equipment, and materials furnished under this Agreement, Agency shall receive the following as full compensation:
 - 3.1.1. County shall make monthly payments to Agency based on the cost savings attributable to reduction of staffed ambulance units by Contractor ("Cost Savings") as they are received from Contractor. It is understood that any further reductions will only be undertaken by Contractor as it is able to do so consistent with its obligations to meet response time standards.
 - 3.1.2. Cost Savings were established as \$363,737.00 per annum in the proposal submitted to County by the Contractor in 2013 for the continuation of the Coordinated Zone response time standards beginning in May of 2014.
 - 3.1.3. Cost Savings will be shared as follows:
 - 60% to the Participating Providers (\$218,242);
 - 20% for System Enhancement (\$72,747.40);
 - 20% for Hardship Relief (\$72,747.40).
 - 3.1.4. Agency will receive 18% of the 60% share payable to the Participating Providers collectively. County will remit Agency's share of the Cost Savings within 14 days of County's receipt of the funds from Contractor.
- 3.2. County's payments to Agency under this Agreement are subject to the receipt of funds by County from Contractor. In the event that Contractor's payments attributable to these savings are not received by the County for any reason, County is not responsible for the corresponding payments to Agency.

4. PERFORMANCE REQUIREMENTS.

For purposes of determining levels of compensation under Section 3, and termination of the contract for cause under paragraph 11.5, the parties have established the following performance requirements:

- 4.1. Agency will provide 100 percent, 24-hour-per-day, coverage for all emergency requests for medical assistance within the Contract Service Area. Agency shall provide Advanced Life Support (ALS) medical response to all requests for service within the service area; except as otherwise provided herein.
- 4.2. Response Interval Definition. Response Intervals under this Agreement are measured from the time call is dispatched by the public safety answering point (hereinafter, "PSAP") until the first Participating Provider medical unit, or Contractor ALS unit, or other County-approved ALS responder, arrives at the scene.
- 4.3. If an Agency unit fails to report an at the scene time, an alternate time from the next communication may be used as the as the at scene time.
- 4.4. Response Time Requirements. Agency must operate its emergency medical response under this Agreement so as to achieve 90% response time compliance in each Zone every month, measured separately for Priority 1, Priority 2, and Priority 3 calls. For example, to be in compliance for a Priority 1 response in the Urban Zone, Agency must place an ALS emergency medical response unit on the scene of the Priority 1 call within eight minutes and zero seconds (8:00). Ninety percent of calls in each Zone must meet the response time standard each month. County may combine Priority 2 and Priority 3 calls for determining compliance and payment reduction. Response time requirements are set forth below for Priority 1, 2 and 3 calls in each Zone.

Priority	Urban Zone Response	Suburban Zone Response	Rural Zone Response
1	8:00	12:00	20:00
2	12:00	15:00	
3	20:00	25:00	

5. CONTRACT SERVICE AREA

The Contract Service Area consists of:

- 5.1. Those areas within the Agency's boundaries within the Clackamas Ambulance Service Area (ASA) as shown on the map attached hereto as "Appendix A," and incorporated herein by reference, and
- 5.2. Those areas not within the boundaries of the Agency that it serves through contract or agreement and that are within the Clackamas ASA.
- 5.3. Each Participating Provider may determine the method of response into border areas and whether mutual or automatic aid responses between Participating Providers may best meet response performance standards.

Participating Providers shall attempt to have the closest appropriate unit respond to each emergency event regardless of jurisdictional boundaries.

6. SUPPLIES AND EQUIPMENT

- 6.1. A qualified first responder unit consists of the supplies and equipment necessary to initiate immediate advanced life support interventions. The first responder unit may be a fire response vehicle, or other such configuration as approved by the County, and shall be staffed in accordance with section 2.6 of this Agreement.
- 6.2. Supplies and equipment carried on first response vehicles will be generally the same as Oregon Health Division supply and equipment requirements for ambulances. The county and the participating agencies recognize that supply and equipment differences will exist because of differences between transport and first response functions. The Participating Providers will provide EMS load lists to the County Medical Director.
- 6.3. County and the Participating Providers agree that, generally, standardizing supplies and equipment is beneficial to County residents. The Participating Providers will work toward creating common equipment lists, common supply manufacturers, and common consumable items.
- 6.4. Participating Providers and the County will collaborate to establish equipment standards for frequently used equipment such as backboards. Such equipment will be used by ambulance personnel and by participating agencies and may be owned by County.
 - 6.4.1. County will require monthly reimbursement by the ambulance Contractor of the cost of Agency's consumable supplies used on responses in which an ambulance transport resulted, at a rate determined according to the County's agreement with the Contractor.

7. DISASTER ASSISTANCE AND MASS CASUALTY INCIDENTS (MCIs)

- 7.1. Operations modified during periods of disaster assistance. During a disaster appropriately declared by the local, state, or federal government, the Participating Providers' normal mode of operating will be modified in order to provide services which are appropriate for the nature of the disaster and which are consistent with local disaster plans and protocols. During such time periods, Agency shall be exempted from response time performance requirements until notified by the County Department of Health, Housing and Human Services that disaster assistance may be terminated.
- 7.2. The County may modify response requirements for other situations, including public health emergencies and mass casualty incidents that are beyond the control of the agency, even if the emergency is not a declared disaster.

8. REPORTING

- 8.1. For each patient contacted, Agency personnel shall complete a County-approved patient report form.
- 8.2. The County and Agency will work cooperatively to develop the data reporting structure. Agency shall submit data to the County in a form approved by County. Agency shall provide a report each month, by the 19th day following the end of the previous month, with the following information:

- 8.2.1. all data requested for calculating response time compliance;
 - 8.2.2. response time summary;
 - 8.2.3. incidents of unit breakdown;
 - 8.2.4. calls referred to other agencies; and
 - 8.2.5. all calls for which the Agency is requesting an exclusion, correction, or exception.
- 8.3. County has the right to audit and inspect records to verify accuracy of data and to verify compliance with this agreement.
 - 8.4. County will provide Agency with an annual accounting detailing the expenditure of System Enhancement funds.

9. MUTUAL AID AMBULANCE SERVICE

Participating Providers may provide mutual aid ambulance service at the request of the Contractor, in accordance with a mutual aid agreement. Contractor remains responsible for ambulance response time standards. Participating Providers shall manage any response to such mutual aid requests in a manner which does not jeopardize their ability to render reliable ALS response time performance as required hereunder.

10. LONG-TERM SYSTEM CHANGES; EMS COUNCIL

- 10.1. The parties recognize that the EMS, technology, legal, and financial environments are evolving. Over time, the EMS system may also evolve and make the current system design obsolete. The parties agree that this contract is based on the assumption that the EMS system will operate with the current general structure. In the event of changes to the current structure (such as significant dispatch system changes), the parties will meet and confer regarding changes to the Agreement. This Agreement may be amended at any time by the mutual agreement of the parties.
- 10.2. The EMS Council, which is established under the County's ambulance service plan, is expected to be involved regarding any changes taking place to the EMS system. The EMS Council may establish subcommittees to address particular issues or elements within the EMS system, including issues such as the appropriation and use of System Enhancement funds by the County.

11. TERM OF AGREEMENT, RENEWAL, AND TERMINATION

- 11.1. Term. This Agreement will commence on May 1, 2014 and unless terminated as provided herein, shall continue through May 1, 2019.
- 11.2. Renewal or Extension. This term of this Agreement may be renewed or extended by mutual agreement of the parties.
- 11.3. Termination for Lack of Funds. The parties to this Agreement are Oregon local governments. Either party may terminate its participation in this Agreement upon not less than 60 days prior written notice if the party's governing body determines that it is unable to appropriate sufficient funds to fund the party's obligations under this Agreement beyond the effective date of termination.
- 11.4. Termination for Convenience. Either party may terminate this contract upon 60 days written notice to the other of intent to terminate.

11.5. Termination for Cause. Either party may terminate this Agreement upon 30 days written notice to the other party of its breach of the Agreement, or its failure to perform any of its obligations under this Agreement, provided that the written notice shall describe with particularity the circumstances causing the breach and such breach remains uncorrected at the end of the 30 day notice period or such longer period as the party providing the notice may specify. Failure of the non-breaching party to terminate under this section does not constitute a waiver of its right to terminate at a later date if the breach remains uncorrected after the expiration of the notice period, or if a new breach occurs.

12. LATE-RUN AND OTHER PAYMENT REDUCTIONS

12.1. Nature of payment reductions:

12.1.1. This Agreement recites provisions for reductions in payment when a Participating Provider fails to meet the response time requirements established in this Agreement, such as for late response within the Contract Service Area. Such payments and standards are imposed by the County Ambulance Service Plan, a County ordinance enacted pursuant to State law. Participating Providers agree to abide by the terms of said Plan, including reductions in payment for late responses or other failure to meet service standards.

12.1.2. The parties further agree that the payment reductions referred to above and recited in this Agreement shall be regarded as "liquidated damages" under this contract and not punitive in nature, and further, that the sums recited in this Agreement represent a reasonable endeavor by County and Agency to estimate a fair compensation for the foreseeable damage to County and its residents from Agency's failure to meet the established standards.

12.2. (reserved)

12.3. Payment Reductions for Emergency Calls.

12.3.1. For those months that the Participating Provider fails to respond to 90 percent of all Emergency Calls within a time period specified in the response time standards, the County will review the factors of production to determine the causes of noncompliance. For those months that the Participating Provider fails to meet the 90 percent standard, a \$1,000 payment reduction may be assessed for each one-tenth of a percentage point less than 90 percent for each individual zone (i.e., urban, suburban, and rural). Cancelled and downgraded Emergency Calls shall not be considered in the calculation of this performance standard.

12.4. Response Time Exception Requests.

12.4.1. Agency shall maintain mechanisms for reserve production capacity to increase production should temporary system overload persist. However, Agency shall be granted an exception from response time requirements if unusual factors beyond the Agency's reasonable control affect achievement of the specified response time requirement. These unusual factors are limited to unusually severe weather conditions,

declared disasters or periods of unusually high demand for emergency services.

12.4.2. Equipment failures, traffic congestion, vehicle failures, dispatch errors, inability to staff units and other causes of a type not described in paragraph 12.4.1 will not be grounds for granting an exception to compliance with the response time requirements.

12.4.3. If Agency believes that it should be granted exceptions from response time requirements for any response or group of responses as provided in paragraph 12.4.1, the agency may provide detailed documentation to the County and request that the County grant the exceptions and exclude the runs from response time calculations and late penalties. Any such request must be made in writing and received by the County within five (5) business days after the end of each month. The County will review the request and issue a determination. Should the Agency dispute the determination made by the County, the Agency may make a written appeal to the Director of Health, Housing and Human Services for a definitive ruling within five (5) days of receiving the response time calculations summary. The Director's ruling will be final and binding.

12.4.4. Each incident will be counted as a single response regardless of the number of units that respond. The dispatch time of the first unit dispatched and the on scene time of the first arriving unit will be used to compute the response time for the incident.

13. DISPUTE RESOLUTION

13.1. The parties desire, if possible, to resolve disputes, controversies, and claims ("Disputes") arising out of this Agreement without litigation. To that end at the written request of a party, each party shall appoint a knowledgeable, responsible management representative to meet and negotiate in good faith to resolve any Dispute arising under this Agreement.

13.2. If the negotiations do not resolve the Dispute within sixty (60) days of the initial written request, the Dispute shall be submitted to non-binding mediation with a mediator chosen by mutual agreement of the parties.

13.3. Each participating party shall bear its own costs of mediation, and the parties shall share equally the fees of the mediator.

14. FORCE MAJEURE

14.1. If any party hereto is rendered unable wholly or in part, by Force Majeure to carry out its obligations under this Agreement, that party shall give to the other parties hereto prompt notice of the Force Majeure with reasonable full particulars concerning it. Thereupon, the obligations of the party giving the notice, so far as they are affected by the Force Majeure, shall be suspended during, but no longer than the continuance of the Force Majeure, except for a reasonable time thereafter required to resume performance.

14.2. During any period in which any party hereto is excused from performance by reason of the occurrence of an event of Force Majeure, the party so excused shall promptly, diligently, and in good faith take all reasonable action required

in order for it to be able to commence or resume performance of its obligations under the Agreement.

- 14.3. The party whose performance is excused due to the occurrence of an event of Force Majeure shall, during such period, keep the other parties notified of all such actions required in order for it to be able to commence or resume performance of its obligations under the Agreement.
- 14.4. "Force Majeure" is defined as an act of God, act of public enemy, war, and other causes not reasonably within the control of any parties hereto, but not including events expected as part of the Agency's ordinary business of rescuing persons and extinguishing fires.

15. INDEMNIFICATION

Each party shall be solely responsible for its own acts, and for those of its employees and officers under this Agreement. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, save harmless and defend the other, its officers, 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 indemnifying party.

16. INDEPENDENT CONTRACTOR

Agency is an independent contractor and not an agent of County. Agency will use its own independent judgment in delivering services under this Agreement.

17. INSURANCE

- 17.1. Agency agrees to furnish County with evidence of comprehensive general liability insurance in the amount of not less than \$500,000 combined single limit per occurrence, \$1,000,000 general annual aggregate, for personal injury and property damage coverage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, damage to property, including loss of use thereof, in any way related to this Agreement. County, at its option, may require a complete copy of the above policy.
- 17.2. Agency agrees to furnish County with evidence of comprehensive automobile liability insurance in the amount of not less than \$500,000 combined single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, in any way related to this Agreement. The County, at its option, may require a complete copy of the above policy.
- 17.3. The insurance in paragraphs 17.1 and 17.2 above shall include County as an additional insured and refer to and support the Agency's obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide 30 days written notice to County in the event of cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to County under this insurance. The insurance company will provide written notice to County within thirty (30) days after any reduction in the general annual aggregate limit.

17.4. Agency agrees to furnish County with evidence of professional liability insurance for all activities of Agency arising out of or in connections with this agreement, in an amount no less than \$1,000,000 combined single limit for each occurrence. In the event Agency cannot provide an occurrence policy, Agency shall provide insurance covering claims made as a result of performance of this Agreement and shall maintain such insurance in effect for not less than two (2) years following completion of performance of this Agreement. The County, at its option, may require a complete copy of the above policy.

17.5. All of these policies shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

18. THIRD PARTY BENEFICIARIES

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

19. NONTRANSFERABILITY

Agency may not transfer or assign this Agreement or any interest therein without prior written consent of County.

20. ENTIRE AGREEMENT; AMENDMENT; WAIVER

This Agreement constitutes the entire agreement between the parties on the subject matter hereof. No modification or change of terms of this agreement shall bind either party unless in writing and signed by the Agency and the County, and no consent or waiver shall be effective unless in writing and signed by the party against whom such consent or waiver is being enforced. There are no understandings, agreements or representations, oral or written, not specified herein regarding the Agreement.

DATED THIS _____ DAY OF _____, 2014.

COUNTY

CITY OF LAKE OSWEGO

John Ludlow, Chair
Board of County Commissioners
Clackamas County

Kent Studebaker

Kent Studebaker
Mayor

Attest:

Recording Secretary

Approved as to form

County Counsel

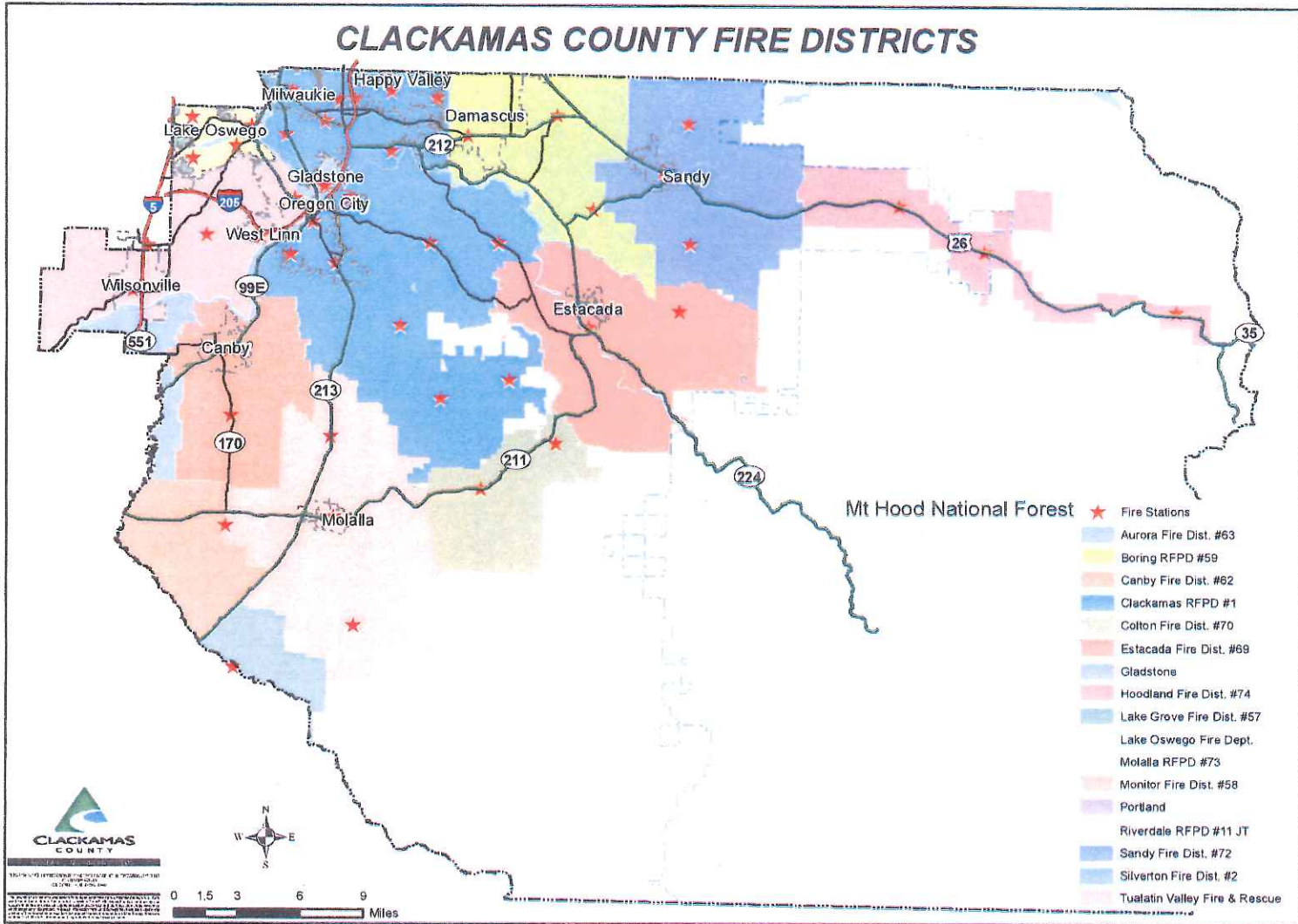
Approved as to form

Steve Dool

City Attorney

Attachments: Appendix A - Map

CLACKAMAS COUNTY FIRE DISTRICTS



Appendix A: Fire District Map

**INTERGOVERNMENTAL AGREEMENT for
ADVANCED LIFE SUPPORT
EMERGENCY MEDICAL SYSTEM
INTEGRATION**

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WITNESSETH:

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WHEREAS, Clackamas County adopted an Ambulance Service Area Plan on July 12, 2012, and the Oregon Health Division approved the Plan, and

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- 1.13. "System Enhancement" means any of the following, in such proportion as is determined by the County after consideration of priority recommendations made by the Participating Providers: reduction of rates for ambulance service, hardship relief for customers unable to pay ambulance service bills, emergency medical equipment, emergency medical service-related education, and emergency medical service-related research and development.

2. GENERAL RESPONSIBILITIES AND DUTIES OF AGENCY

2.1. SERVICES PROVIDED. Agency shall furnish to County the services, equipment, and materials hereinafter set forth, including first response paramedic services, in accordance with adopted medical protocols, within the Contract Service Area. Agency shall:

- 2.1.1. Respond to all calls for emergency medical assistance within its service area received from a 9-1-1 dispatch center.
- 2.1.2. Employ and manage field personnel (personnel performing services shall remain employees of Agency, which shall bear all responsibility for wages, benefits and workers' compensation coverage).
- 2.1.3. Provide or contract for employee inservice training in accordance with state and local guidelines.
- 2.1.4. Provide for all maintenance of, vehicles, on-board equipment, and facilities used in performance of the work herein.
- 2.1.5. Furnish all fuel, lubricants, repairs, initial supply inventory and all supplies (except those supplies replaced by ambulance Contractor).
- 2.1.6. Develop, negotiate, and maintain good working relationships with other health care provider organizations and personnel.
- 2.1.7. Participate fully in the County quality improvement process, provide special training to personnel found in need of special assistance in specific skill or knowledge areas.
- 2.1.8. Maintain state and local vehicle permits, licenses and personnel certifications.
- 2.1.9. Cause County Emergency Medical Services Medical Director (EMSMD) and agency medical director policies to be properly implemented in the field. Agencies shall take all reasonable steps to ensure that knowledge gained during the quality improvement process is routinely translated into improved field performance by way of inservice training, amendments to standard operating guidelines, newsletters, new employee orientation and other appropriate procedures.
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2.2. MEDICAL OVERSIGHT. Agency agrees to participate with the County EMSMD to regulate services within the service area. Agency may continue to receive medical direction from a physician that it may designate. Agency's medical director will work closely with the EMSMD to integrate and improve out-of-hospital medical care in the area. The Agency and its medical director will participate in emergency physician's advisory board (EPAB) to coordinate medical director services.

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 - 2.5. DATA INTEGRATION. Participating Providers and the County will work cooperatively to establish uniform county data points and other electronic data sets, and to establish an integrated data reporting system and integrated data cache for the County.
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 - 2.6.1. First response vehicles used by Agency to provide services under this agreement may be staffed by one Paramedic, without an accompanying EMT-Basic, where the County has given prior written approval for a single-paramedic car response program.
 - 2.7. PRIORITY DISPATCH. Agency will cooperate with the implementation of protocols for a Medical Priority Dispatch System (MPDS), including modification of response time requirements.
3. COMPENSATION.
- 3.1. In consideration of the services, equipment, and materials furnished under this Agreement, Agency shall receive the following as full compensation:
 - 3.1.1. County shall make monthly payments to Agency based on the cost savings attributable to reduction of staffed ambulance units by Contractor ("Cost Savings") as they are received from Contractor. It is understood that any further reductions will only be undertaken by Contractor as it is able to do so consistent with its obligations to meet response time standards.
 - 3.1.2. Cost Savings were established as \$363,737.00 per annum in the proposal submitted to County by the Contractor in 2013 for the continuation of the Coordinated Zone response time standards beginning in May of 2014.
 - 3.1.3. Cost Savings will be shared as follows:
 - 60% to the Participating Providers (\$218,242);
 - 20% for System Enhancement (\$72,747.40);
 - 20% for Hardship Relief (\$72,747.40).
 - 3.1.4. Agency will receive 60% of the 60% share payable to the Participating Providers collectively. County will remit Agency's share of the Cost Savings within 14 days of County's receipt of the funds from Contractor.
 - 3.2. County's payments to Agency under this Agreement are subject to the receipt of funds by County from Contractor. In the event that Contractor's payments attributable to these savings are not received by the County for any reason, County is not responsible for the corresponding payments to Agency.

4. PERFORMANCE REQUIREMENTS.

For purposes of determining levels of compensation under Section 3, and termination of the contract for cause under paragraph 11.5, the parties have established the following performance requirements:

- 4.1. Agency will provide 100 percent, 24-hour-per-day, coverage for all emergency requests for medical assistance within the Contract Service Area. Agency shall provide Advanced Life Support (ALS) medical response to all requests for service within the service area; except as otherwise provided herein.
- 4.2. Response Interval Definition. Response Intervals under this Agreement are measured from the time call is dispatched by the public safety answering point (hereinafter, "PSAP") until the first Participating Provider medical unit, or Contractor ALS unit, or other County-approved ALS responder, arrives at the scene.
- 4.3. If an Agency unit fails to report an at the scene time, an alternate time from the next communication may be used as the as the at scene time.
- 4.4. Response Time Requirements. Agency must operate its emergency medical response under this Agreement so as to achieve 90% response time compliance in each Zone every month, measured separately for Priority 1, Priority 2, and Priority 3 calls. For example, to be in compliance for a Priority 1 response in the Urban Zone, Agency must place an ALS emergency medical response unit on the scene of the Priority 1 call within eight minutes and zero seconds (8:00). Ninety percent of calls in each Priority in each Zone must meet the response time standard each month. County may combine Priority 2 and Priority 3 calls for determining compliance and payment reduction. Response time requirements are set forth below for Priority 1, 2 and 3 calls in each Zone.

Priority	Urban Zone Response	Suburban Zone Response	Rural Zone Response
1	8:00	12:00	20:00
2	12:00	15:00	
3	20:00	25:00	

5. CONTRACT SERVICE AREA

The Contract Service Area consists of:

- 5.1. Those areas within the Agency's boundaries within the Clackamas Ambulance Service Area (ASA) as shown on the map attached hereto as "Appendix A," and incorporated herein by reference, and
- 5.2. Those areas not within the boundaries of the Agency that it serves through contract or agreement and that are within the Clackamas ASA.
- 5.3. Each Participating Provider may determine the method of response into border areas and whether mutual or automatic aid responses between Participating Providers may best meet response performance standards.

Participating Providers shall attempt to have the closest appropriate unit respond to each emergency event regardless of jurisdictional boundaries.

6. SUPPLIES AND EQUIPMENT

- 6.1. A qualified first responder unit consists of the supplies and equipment necessary to initiate immediate advanced life support interventions. The first responder unit may be a fire response vehicle, or other such configuration as approved by the County, and shall be staffed in accordance with section 2.6 of this Agreement.
- 6.2. Supplies and equipment carried on first response vehicles will be generally the same as Oregon Health Division supply and equipment requirements for ambulances. The county and the participating agencies recognize that supply and equipment differences will exist because of differences between transport and first response functions. The Participating Providers will provide EMS load lists to the County Medical Director.
- 6.3. County and the Participating Providers agree that, generally, standardizing supplies and equipment is beneficial to County residents. The Participating Providers will work toward creating common equipment lists, common supply manufacturers, and common consumable items.
- 6.4. Participating Providers and the County will collaborate to establish equipment standards for frequently used equipment such as backboards. Such equipment will be used by ambulance personnel and by participating agencies and may be owned by County.
 - 6.4.1. County will require monthly reimbursement by the ambulance Contractor of the cost of Agency's consumable supplies used on responses in which an ambulance transport resulted, at a rate determined according to the County's agreement with the Contractor.

7. DISASTER ASSISTANCE AND MASS CASUALTY INCIDENTS (MCIs)

- 7.1. Operations modified during periods of disaster assistance. During a disaster appropriately declared by the local, state, or federal government, the Participating Providers' normal mode of operating will be modified in order to provide services which are appropriate for the nature of the disaster and which are consistent with local disaster plans and protocols. During such time periods, Agency shall be exempted from response time performance requirements until notified by the County Department of Health, Housing and Human Services that disaster assistance may be terminated.
- 7.2. The County may modify response requirements for other situations, including public health emergencies and mass casualty incidents that are beyond the control of the agency, even if the emergency is not a declared disaster.

8. REPORTING

- 8.1. For each patient contacted, Agency personnel shall complete a County-approved patient report form.
- 8.2. The County and Agency will work cooperatively to develop the data reporting structure. Agency shall submit data to the County in a form approved by County. Agency shall provide a report each month, by the 19th day following the end of the previous month, with the following information:

- 8.2.1. all data requested for calculating response time compliance;
 - 8.2.2. response time summary;
 - 8.2.3. incidents of unit breakdown;
 - 8.2.4. calls referred to other agencies; and
 - 8.2.5. all calls for which the Agency is requesting an exclusion, correction, or exception.
- 8.3. County has the right to audit and inspect records to verify accuracy of data and to verify compliance with this agreement.
- 8.4. County will provide Agency with an annual accounting detailing the expenditure of System Enhancement funds.

9. MUTUAL AID AMBULANCE SERVICE

Participating Providers may provide mutual aid ambulance service at the request of the Contractor, in accordance with a mutual aid agreement. Contractor remains responsible for ambulance response time standards. Participating Providers shall manage any response to such mutual aid requests in a manner which does not jeopardize their ability to render reliable ALS response time performance as required hereunder.

10. LONG-TERM SYSTEM CHANGES; EMS COUNCIL

- 10.1. The parties recognize that the EMS, technology, legal, and financial environments are evolving. Over time, the EMS system may also evolve and make the current system design obsolete. The parties agree that this contract is based on the assumption that the EMS system will operate with the current general structure. In the event of changes to the current structure (such as significant dispatch system changes), the parties will meet and confer regarding changes to the Agreement. This Agreement may be amended at any time by the mutual agreement of the parties.
- 10.2. The EMS Council, which is established under the County's ambulance service plan, is expected to be involved regarding any changes taking place to the EMS system. The EMS Council may establish subcommittees to address particular issues or elements within the EMS system, including issues such as the appropriation and use of System Enhancement funds by the County.

11. TERM OF AGREEMENT, RENEWAL, AND TERMINATION

- 11.1. Term. This Agreement will commence on May 1, 2014 and unless terminated as provided herein, shall continue through May 1, 2019.
- 11.2. Renewal or Extension. This term of this Agreement may be renewed or extended by mutual agreement of the parties.
- 11.3. Termination for Lack of Funds. The parties to this Agreement are Oregon local governments. Either party may terminate its participation in this Agreement upon not less than 60 days prior written notice if the party's governing body determines that it is unable to appropriate sufficient funds to fund the party's obligations under this Agreement beyond the effective date of termination.
- 11.4. Termination for Convenience. Either party may terminate this contract upon 60 days written notice to the other of intent to terminate.

11.5. Termination for Cause. Either party may terminate this Agreement upon 30 days written notice to the other party of its breach of the Agreement, or its failure to perform any of its obligations under this Agreement, provided that the written notice shall describe with particularity the circumstances causing the breach and such breach remains uncorrected at the end of the 30 day notice period or such longer period as the party providing the notice may specify. Failure of the non-breaching party to terminate under this section does not constitute a waiver of its right to terminate at a later date if the breach remains uncorrected after the expiration of the notice period, or if a new breach occurs.

12. LATE-RUN AND OTHER PAYMENT REDUCTIONS

12.1. Nature of payment reductions:

12.1.1. This Agreement recites provisions for reductions in payment when a Participating Provider fails to meet the response time requirements established in this Agreement, such as for late response within the Contract Service Area. Such payments and standards are imposed by the County Ambulance Service Plan, a County ordinance enacted pursuant to State law. Participating Providers agree to abide by the terms of said Plan, including reductions in payment for late responses or other failure to meet service standards.

12.1.2. The parties further agree that the payment reductions referred to above and recited in this Agreement shall be regarded as "liquidated damages" under this contract and not punitive in nature, and further, that the sums recited in this Agreement represent a reasonable endeavor by County and Agency to estimate a fair compensation for the foreseeable damage to County and its residents from Agency's failure to meet the established standards.

12.2. (reserved)

12.3. Payment Reductions for Emergency Calls.

12.3.1. For those months that the Participating Provider fails to respond to 90 percent of all Emergency Calls within a time period specified in the response time standards, the County will review the factors of production to determine the causes of noncompliance. For those months that the Participating Provider fails to meet the 90 percent standard, a \$1,000 payment reduction may be assessed for each one-tenth of a percentage point less than 90 percent for each individual zone (i.e., urban, suburban, and rural). Cancelled and downgraded Emergency Calls shall not be considered in the calculation of this performance standard.

12.4. Response Time Exception Requests.

12.4.1. Agency shall maintain mechanisms for reserve production capacity to increase production should temporary system overload persist. However, Agency shall be granted an exception from response time requirements if unusual factors beyond the Agency's reasonable control affect achievement of the specified response time requirement. These unusual factors are limited to unusually severe weather conditions,

declared disasters or periods of unusually high demand for emergency services.

12.4.2. Equipment failures, traffic congestion, vehicle failures, dispatch errors, inability to staff units and other causes of a type not described in paragraph 12.4.1 will not be grounds for granting an exception to compliance with the response time requirements.

12.4.3. If Agency believes that it should be granted exceptions from response time requirements for any response or group of responses as provided in paragraph 12.4.1, the agency may provide detailed documentation to the County and request that the County grant the exceptions and exclude the runs from response time calculations and late penalties. Any such request must be made in writing and received by the County within five (5) business days after the end of each month. The County will review the request and issue a determination. Should the Agency dispute the determination made by the County, the Agency may make a written appeal to the Director of Health, Housing and Human Services for a definitive ruling within five (5) days of receiving the response time calculations summary. The Director's ruling will be final and binding.

12.4.4. Each incident will be counted as a single response regardless of the number of units that respond. The dispatch time of the first unit dispatched and the on scene time of the first arriving unit will be used to compute the response time for the incident.

13. DISPUTE RESOLUTION

13.1. The parties desire, if possible, to resolve disputes, controversies, and claims ("Disputes") arising out of this Agreement without litigation. To that end at the written request of a party, each party shall appoint a knowledgeable, responsible management representative to meet and negotiate in good faith to resolve any Dispute arising under this Agreement.

13.2. If the negotiations do not resolve the Dispute within sixty (60) days of the initial written request, the Dispute shall be submitted to non-binding mediation with a mediator chosen by mutual agreement of the parties.

13.3. Each participating party shall bear its own costs of mediation, and the parties shall share equally the fees of the mediator.

14. FORCE MAJEURE

14.1. If any party hereto is rendered unable wholly or in part, by Force Majeure to carry out its obligations under this Agreement, that party shall give to the other parties hereto prompt notice of the Force Majeure with reasonable full particulars concerning it. Thereupon, the obligations of the party giving the notice, so far as they are affected by the Force Majeure, shall be suspended during, but no longer than the continuance of the Force Majeure, except for a reasonable time thereafter required to resume performance.

14.2. During any period in which any party hereto is excused from performance by reason of the occurrence of an event of Force Majeure, the party so excused shall promptly, diligently, and in good faith take all reasonable action required

in order for it to be able to commence or resume performance of its obligations under the Agreement.

14.3. The party whose performance is excused due to the occurrence of an event of Force Majeure shall, during such period, keep the other parties notified of all such actions required in order for it to be able to commence or resume performance of its obligations under the Agreement.

14.4. "Force Majeure" is defined as an act of God, act of public enemy, war, and other causes not reasonably within the control of any parties hereto, but not including events expected as part of the Agency's ordinary business of rescuing persons and extinguishing fires.

15. INDEMNIFICATION

Each party shall be solely responsible for its own acts, and for those of its employees and officers under this Agreement. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, save harmless and defend the other, its officers, 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 indemnifying party.

16. INDEPENDENT CONTRACTOR

Agency is an independent contractor and not an agent of County. Agency will use its own independent judgment in delivering services under this Agreement.

17. INSURANCE

17.1. Agency agrees to furnish County with evidence of comprehensive general liability insurance in the amount of not less than \$500,000 combined single limit per occurrence, \$1,000,000 general annual aggregate, for personal injury and property damage coverage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, damage to property, including loss of use thereof, in any way related to this Agreement. County, at its option, may require a complete copy of the above policy.

17.2. Agency agrees to furnish County with evidence of comprehensive automobile liability insurance in the amount of not less than \$500,000 combined single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, in any way related to this Agreement. The County, at its option, may require a complete copy of the above policy.

17.3. The insurance in paragraphs 17.1 and 17.2 above shall include County as an additional insured and refer to and support the Agency's obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide 30 days written notice to County in the event of cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to County under this insurance. The insurance company will provide written notice to County within thirty (30) days after any reduction in the general annual aggregate limit.

17.4. Agency agrees to furnish County with evidence of professional liability insurance for all activities of Agency arising out of or in connections with this agreement, in an amount no less than \$1,000,000 combined single limit for each occurrence. In the event Agency cannot provide an occurrence policy, Agency shall provide insurance covering claims made as a result of performance of this Agreement and shall maintain such insurance in effect for not less than two (2) years following completion of performance of this Agreement. The County, at its option, may require a complete copy of the above policy.

17.5. All of these policies shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

18. THIRD PARTY BENEFICIARIES

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

19. NONTRANSFERABILITY

Agency may not transfer or assign this Agreement or any interest therein without prior written consent of County.

20. ENTIRE AGREEMENT; AMENDMENT; WAIVER

This Agreement constitutes the entire agreement between the parties on the subject matter hereof. No modification or change of terms of this agreement shall bind either party unless in writing and signed by the Agency and the County, and no consent or waiver shall be effective unless in writing and signed by the party against whom such consent or waiver is being enforced. There are no understandings, agreements or representations, oral or written, not specified herein regarding the Agreement.

DATED THIS _____ DAY OF _____, 2014.

COUNTY

CLACKAMAS FIRE DISTRICT #1

John Ludlow, Chair
Board of County Commissioners
Clackamas County

Fred Charlton
Fire Chief

Attest:

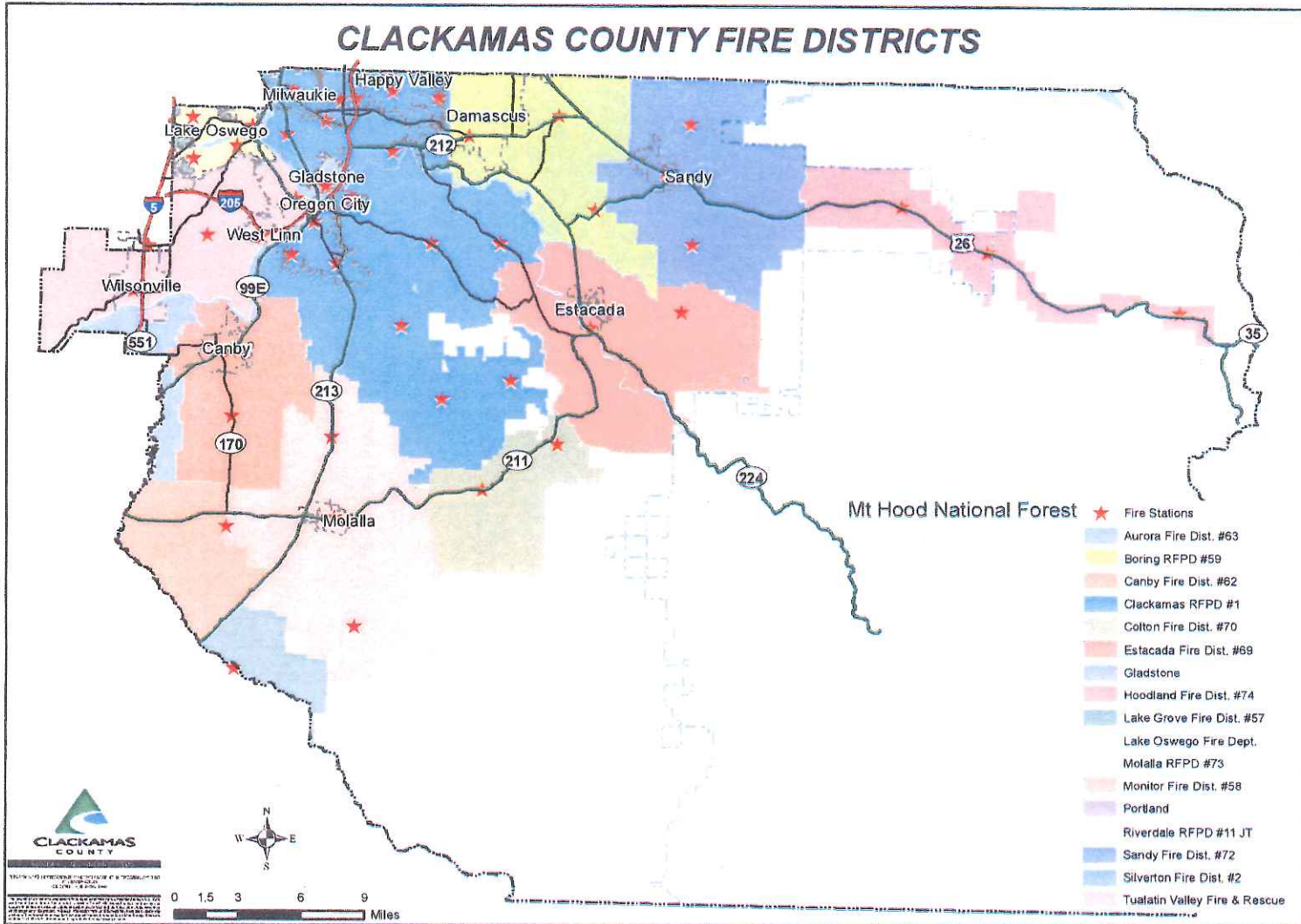
Recording Secretary

Approved as to form:

County Counsel

Attachments: Appendix A - Map

CLACKAMAS COUNTY FIRE DISTRICTS



Appendix A: Fire District Map

**INTERGOVERNMENTAL AGREEMENT for
ADVANCED LIFE SUPPORT
EMERGENCY MEDICAL SYSTEM
INTEGRATION**

THIS AGREEMENT is made and entered into by and between Clackamas County, hereinafter referred to as "County," and Tualatin Valley Fire and Rescue, hereinafter referred to as "Agency," which are political subdivisions of the State of Oregon.

WITNESSETH:

WHEREAS, Oregon law requires counties to develop a plan relating to the need for coordination of ambulance services and to establish ambulance service areas (ASAs),

WHEREAS, Clackamas County adopted an Ambulance Service Area Plan on July 12, 2012, and the Oregon Health Division approved the Plan, and

WHEREAS, said Ambulance Service Plan established the County's desire to encourage effective partnerships in the emergency medical services system, recognizing the contribution of advanced life support (ALS) first response services delivered by fire service agencies, and regulating those services, and

WHEREAS, the County and the Agency have determined that an overall system design that considers an integrated advanced life support system provides the best opportunity for improving patient outcomes, reducing unnecessarily duplicated resources within the emergency medical services (EMS system), absorbing growth in call volume and population, lowering cost, and meeting performance standards, and

WHEREAS, the Agency's contractual commitment to meet response time standards in the delivery of medical first response services will allow a reduction in ambulance response time requirements, thereby generating anticipated cost savings which will be shared with Agency in order to compensate it for a portion of the costs it bears for providing medical first response services, and

WHEREAS the County recognizes the importance of having uniform agreements between it and multiple fire service agencies within the County for ALS services integrated into the ambulance response system, and

WHEREAS, it is in the public interest for the Agency and the County to enter into this agreement, the Agency and the County hereby agree as follows.

1. DEFINITIONS

- 1.1. "Ambulance Provider" or "Ambulance Service Provider" means a licensed ambulance service that responds to 9-1-1 dispatched calls or provides pre-arranged non-emergency transfers or emergency or non-emergency inter-facility transfers.

- 1.2. "ALS Unit" means an ambulance or fire vehicle staffed and equipped to provide advanced life support.
- 1.3. "Contract Service Area" means the area within the Clackamas Ambulance Service Area that is either within the geographical limits of the Agency, or is an area outside the Agency's geographical limits in which it has agreed to provide emergency medical response services.
- 1.4. "Contractor" means the entity with which County has entered a contract as the exclusive provider of emergency ground ambulance service within the Clackamas ASA. Contractor is not a Participating Provider.
- 1.5. "Coordinated Zone" means an ambulance response time zone where a fire agency which is a Participating Provider has agreed with the County to provide emergency medical response meeting the County's response time standards.
- 1.6. "Cost Savings" means the expense which the Contractor is able to avoid because of the reduction of staffed ambulance units made possible by the Participating Providers' services pursuant to intergovernmental agreement with the County.
- 1.7. "Emergency Call" means a Priority 1 Call or a Priority 2 Call.
- 1.8. "Hardship Relief" means that portion of the Cost Savings that is allocated and approved by the County for payment of the ambulance bills of Contractor's customers who are unable to pay their bills due to financial hardship.
- 1.9. "Participating Providers" refers to those fire service agencies (fire districts or fire departments) with a contractual agreement with County that allows the County to use the fire agency to modify Contractor's ambulance response time requirements. Agency becomes a Participating Provider by entering this intergovernmental agreement.
- 1.10. "Priority 1 Call" means a life-threatening emergency that would be identified under the Medical Priority Dispatch System (MPDS) as a Charlie, Delta, or Echo call. Certain types of Bravo calls may also be designated by the Emergency Medical Services Medical Director (EMSMD) as Priority 1 calls.
- 1.11. "Priority 2 Call" means a non-life threatening emergency that would be identified under the MPDS as an Alpha or Bravo call.
- 1.12. "Priority 3 Call" means a non-emergency call, or an emergency transport from a healthcare facility that has clinical personnel and emergency equipment available. A Priority 3 call would be identified under the MPDS as either an Omega call or a 33 call. Some MPDS 33 calls have a priority lower than Priority 3.
- 1.13. "System Enhancement" means any of the following, in such proportion as is determined by the County after consideration of priority recommendations made by the Participating Providers: reduction of rates for ambulance service, hardship relief for customers unable to pay ambulance service bills, emergency medical equipment, emergency medical service-related education, and emergency medical service-related research and development.

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- 2.1.1. Respond to all calls for emergency medical assistance within its service area received from a 9-1-1 dispatch center.
 - 2.1.2. Employ and manage field personnel (personnel performing services shall remain employees of Agency, which shall bear all responsibility for wages, benefits and workers' compensation coverage).
 - 2.1.3. Provide or contract for employee inservice training in accordance with state and local guidelines.
 - 2.1.4. Provide for all maintenance of, vehicles, on-board equipment, and facilities used in performance of the work herein.
 - 2.1.5. Furnish all fuel, lubricants, repairs, initial supply inventory and all supplies (except those supplies replaced by ambulance Contractor).
 - 2.1.6. Develop, negotiate, and maintain good working relationships with other health care provider organizations and personnel.
 - 2.1.7. Participate fully in the County quality improvement process, provide special training to personnel found in need of special assistance in specific skill or knowledge areas.
 - 2.1.8. Maintain state and local vehicle permits, licenses and personnel certifications.
 - 2.1.9. Cause County Emergency Medical Services Medical Director (EMSMD) and agency medical director policies to be properly implemented in the field. Agencies shall take all reasonable steps to ensure that knowledge gained during the quality improvement process is routinely translated into improved field performance by way of inservice training, amendments to standard operating guidelines, newsletters, new employee orientation and other appropriate procedures.
 - 2.1.10. The services provided by Agency under this Agreement do not include ambulance transport. Ambulance transport may be offered (1) as a safety net when local ambulance resources are exhausted, (2) in the event of a declared disaster or mass casualty incident, and (3) as a subcontractor of Contractor.
- 2.2. MEDICAL OVERSIGHT. Agency agrees to participate with the County EMSMD to regulate services within the service area. Agency may continue to receive medical direction from a physician that it may designate. Agency's medical director will work closely with the EMSMD to integrate and improve out-of-hospital medical care in the area. The Agency and its medical director will participate in emergency physician's advisory board (EPAB) to coordinate medical director services.
- 2.3. PROTOCOLS. The Agency will use the regional protocols adopted by the Protocol Development Committee and approved by the EMSMD.

- 2.4. RESPONSE REQUIREMENTS. Agency will meet or exceed the response times set forth in section four (4) of this Agreement.
- 2.5. DATA INTEGRATION. Participating Providers and the County will work cooperatively to establish uniform county data points and other electronic data sets, and to establish an integrated data reporting system and integrated data cache for the County.
- 2.6. TRAINING, CERTIFICATION AND STAFFING. Minimum training and certification requirements for personnel shall be at least equal to those imposed on the Contractor. Each first response vehicle used to provide services shall be staffed with a minimum of one EMT-Basic and one Paramedic and be equipped as an ALS unit except as otherwise provided herein.
 - 2.6.1. First response vehicles used by Agency to provide services under this agreement may be staffed by one Paramedic, without an accompanying EMT-Basic, where the County has given prior written approval for a single-paramedic car response program.
- 2.7. PRIORITY DISPATCH. Agency will cooperate with the implementation of protocols for a Medical Priority Dispatch System (MPDS), including modification of response time requirements.

3. COMPENSATION.

- 3.1. In consideration of the services, equipment, and materials furnished under this Agreement, Agency shall receive the following as full compensation:
 - 3.1.1. County shall make monthly payments to Agency based on the cost savings attributable to reduction of staffed ambulance units by Contractor ("Cost Savings") as they are received from Contractor. It is understood that any further reductions will only be undertaken by Contractor as it is able to do so consistent with its obligations to meet response time standards.
 - 3.1.2. Cost Savings were established as \$363,737.00 per annum in the proposal submitted to County by the Contractor in 2013 for the continuation of the Coordinated Zone response time standards beginning in May of 2014.
 - 3.1.3. Cost Savings will be shared as follows:
 - 60% to the Participating Providers (\$218,242);
 - 20% for System Enhancement (\$72,747.40);
 - 20% for Hardship Relief (\$72,747.40).
 - 3.1.4. Agency will receive 22% of the 60% share payable to the Participating Providers collectively. County will remit Agency's share of the Cost Savings within 14 days of County's receipt of the funds from Contractor.
- 3.2. County's payments to Agency under this Agreement are subject to the receipt of funds by County from Contractor. In the event that Contractor's payments attributable to these savings are not received by the County for any reason, County is not responsible for the corresponding payments to Agency.

4. PERFORMANCE REQUIREMENTS.

For purposes of determining levels of compensation under Section 3, and termination of the contract for cause under paragraph 11.5, the parties have established the following performance requirements:

- 4.1. Agency will provide 100 percent, 24-hour-per-day, coverage for all emergency requests for medical assistance within the Contract Service Area. Agency shall provide Advanced Life Support (ALS) medical response to all requests for service within the service area; except as otherwise provided herein.
- 4.2. Response Interval Definition. Response Intervals under this Agreement are measured from the time call is dispatched by the public safety answering point (hereinafter, "PSAP") until the first Participating Provider medical unit, or Contractor ALS unit, or other County-approved ALS responder, arrives at the scene.
- 4.3. If an Agency unit fails to report an at the scene time, an alternate time from the next communication may be used as the as the at scene time.
- 4.4. Response Time Requirements. Agency must operate its emergency medical response under this Agreement so as to achieve 90% response time compliance in each Zone every month, measured separately for Priority 1, Priority 2, and Priority 3 calls. For example, to be in compliance for a Priority 1 response in the Urban Zone, Agency must place an ALS emergency medical response unit on the scene of the Priority 1 call within eight minutes and zero seconds (8:00). Ninety percent of calls in each Priority in each Zone must meet the response time standard each month. County may combine Priority 2 and Priority 3 calls for determining compliance and payment reduction. Response time requirements are set forth below for Priority 1, 2 and 3 calls in each Zone.

Priority	Urban Zone Response	Suburban Zone Response	Rural Zone Response
1	8:00	12:00	20:00
2	12:00	15:00	
3	20:00	25:00	

5. CONTRACT SERVICE AREA

The Contract Service Area consists of:

- 5.1. Those areas within the Agency's boundaries within the Clackamas Ambulance Service Area (ASA) as shown on the map attached hereto as "Appendix A," and incorporated herein by reference, and
- 5.2. Those areas not within the boundaries of the Agency that it serves through contract or agreement and that are within the Clackamas ASA.
- 5.3. Each Participating Provider may determine the method of response into border areas and whether mutual or automatic aid responses between Participating Providers may best meet response performance standards.

Participating Providers shall attempt to have the closest appropriate unit respond to each emergency event regardless of jurisdictional boundaries.

6. SUPPLIES AND EQUIPMENT

- 6.1. A qualified first responder unit consists of the supplies and equipment necessary to initiate immediate advanced life support interventions. The first responder unit may be a fire response vehicle, or other such configuration as approved by the County, and shall be staffed in accordance with section 2.6 of this Agreement.
- 6.2. Supplies and equipment carried on first response vehicles will be generally the same as Oregon Health Division supply and equipment requirements for ambulances. The county and the participating agencies recognize that supply and equipment differences will exist because of differences between transport and first response functions. The Participating Providers will provide EMS load lists to the County Medical Director.
- 6.3. County and the Participating Providers agree that, generally, standardizing supplies and equipment is beneficial to County residents. The Participating Providers will work toward creating common equipment lists, common supply manufacturers, and common consumable items.
- 6.4. Participating Providers and the County will collaborate to establish equipment standards for frequently used equipment such as backboards. Such equipment will be used by ambulance personnel and by participating agencies and may be owned by County.
 - 6.4.1. County will require monthly reimbursement by the ambulance Contractor of the cost of Agency's consumable supplies used on responses in which an ambulance transport resulted, at a rate determined according to the County's agreement with the Contractor.

7. DISASTER ASSISTANCE AND MASS CASUALTY INCIDENTS (MCIs)

- 7.1. Operations modified during periods of disaster assistance. During a disaster appropriately declared by the local, state, or federal government, the Participating Providers' normal mode of operating will be modified in order to provide services which are appropriate for the nature of the disaster and which are consistent with local disaster plans and protocols. During such time periods, Agency shall be exempted from response time performance requirements until notified by the County Department of Health, Housing and Human Services that disaster assistance may be terminated.
- 7.2. The County may modify response requirements for other situations, including public health emergencies and mass casualty incidents that are beyond the control of the agency, even if the emergency is not a declared disaster.

8. REPORTING

- 8.1. For each patient contacted, Agency personnel shall complete a County-approved patient report form.
- 8.2. The County and Agency will work cooperatively to develop the data reporting structure. Agency shall submit data to the County in a form approved by County. Agency shall provide a report each month, by the 19th day following the end of the previous month, with the following information:

- 8.2.1. all data requested for calculating response time compliance;
 - 8.2.2. response time summary;
 - 8.2.3. incidents of unit breakdown;
 - 8.2.4. calls referred to other agencies; and
 - 8.2.5. all calls for which the Agency is requesting an exclusion, correction, or exception.
- 8.3. County has the right to audit and inspect records to verify accuracy of data and to verify compliance with this agreement.
- 8.4. County will provide Agency with an annual accounting detailing the expenditure of System Enhancement funds.

9. MUTUAL AID AMBULANCE SERVICE

Participating Providers may provide mutual aid ambulance service at the request of the Contractor, in accordance with a mutual aid agreement. Contractor remains responsible for ambulance response time standards. Participating Providers shall manage any response to such mutual aid requests in a manner which does not jeopardize their ability to render reliable ALS response time performance as required hereunder.

10. LONG-TERM SYSTEM CHANGES; EMS COUNCIL

- 10.1. The parties recognize that the EMS, technology, legal, and financial environments are evolving. Over time, the EMS system may also evolve and make the current system design obsolete. The parties agree that this contract is based on the assumption that the EMS system will operate with the current general structure. In the event of changes to the current structure (such as significant dispatch system changes), the parties will meet and confer regarding changes to the Agreement. This Agreement may be amended at any time by the mutual agreement of the parties.
- 10.2. The EMS Council, which is established under the County's ambulance service plan, is expected to be involved regarding any changes taking place to the EMS system. The EMS Council may establish subcommittees to address particular issues or elements within the EMS system, including issues such as the appropriation and use of System Enhancement funds by the County.

11. TERM OF AGREEMENT, RENEWAL, AND TERMINATION

- 11.1. Term. This Agreement will commence on May 1, 2014 and unless terminated as provided herein, shall continue through May 1, 2019.
- 11.2. Renewal or Extension. This term of this Agreement may be renewed or extended by mutual agreement of the parties.
- 11.3. Termination for Lack of Funds. The parties to this Agreement are Oregon local governments. Either party may terminate its participation in this Agreement upon not less than 60 days prior written notice if the party's governing body determines that it is unable to appropriate sufficient funds to fund the party's obligations under this Agreement beyond the effective date of termination.
- 11.4. Termination for Convenience. Either party may terminate this contract upon 60 days written notice to the other of intent to terminate.

11.5. Termination for Cause. Either party may terminate this Agreement upon 30 days written notice to the other party of its breach of the Agreement, or its failure to perform any of its obligations under this Agreement, provided that the written notice shall describe with particularity the circumstances causing the breach and such breach remains uncorrected at the end of the 30 day notice period or such longer period as the party providing the notice may specify. Failure of the non-breaching party to terminate under this section does not constitute a waiver of its right to terminate at a later date if the breach remains uncorrected after the expiration of the notice period, or if a new breach occurs.

12. LATE-RUN AND OTHER PAYMENT REDUCTIONS

12.1. Nature of payment reductions:

12.1.1. This Agreement recites provisions for reductions in payment when a Participating Provider fails to meet the response time requirements established in this Agreement, such as for late response within the Contract Service Area. Such payments and standards are imposed by the County Ambulance Service Plan, a County ordinance enacted pursuant to State law. Participating Providers agree to abide by the terms of said Plan, including reductions in payment for late responses or other failure to meet service standards.

12.1.2. The parties further agree that the payment reductions referred to above and recited in this Agreement shall be regarded as "liquidated damages" under this contract and not punitive in nature, and further, that the sums recited in this Agreement represent a reasonable endeavor by County and Agency to estimate a fair compensation for the foreseeable damage to County and its residents from Agency's failure to meet the established standards.

12.2. (reserved)

12.3. Payment Reductions for Emergency Calls.

12.3.1. For those months that the Participating Provider fails to respond to 90 percent of all Emergency Calls within a time period specified in the response time standards, the County will review the factors of production to determine the causes of noncompliance. For those months that the Participating Provider fails to meet the 90 percent standard, a \$1,000 payment reduction may be assessed for each one-tenth of a percentage point less than 90 percent for each individual zone (i.e., urban, suburban, and rural). Cancelled and downgraded Emergency Calls shall not be considered in the calculation of this performance standard.

12.4. Response Time Exception Requests.

12.4.1. Agency shall maintain mechanisms for reserve production capacity to increase production should temporary system overload persist. However, Agency shall be granted an exception from response time requirements if unusual factors beyond the Agency's reasonable control affect achievement of the specified response time requirement. These unusual factors are limited to unusually severe weather conditions,

declared disasters or periods of unusually high demand for emergency services.

12.4.2. Equipment failures, traffic congestion, vehicle failures, dispatch errors, inability to staff units and other causes of a type not described in paragraph 12.4.1 will not be grounds for granting an exception to compliance with the response time requirements.

12.4.3. If Agency believes that it should be granted exceptions from response time requirements for any response or group of responses as provided in paragraph 12.4.1, the agency may provide detailed documentation to the County and request that the County grant the exceptions and exclude the runs from response time calculations and late penalties. Any such request must be made in writing and received by the County within five (5) business days after the end of each month. The County will review the request and issue a determination. Should the Agency dispute the determination made by the County, the Agency may make a written appeal to the Director of Health, Housing and Human Services for a definitive ruling within five (5) days of receiving the response time calculations summary. The Director's ruling will be final and binding.

12.4.4. Each incident will be counted as a single response regardless of the number of units that respond. The dispatch time of the first unit dispatched and the on scene time of the first arriving unit will be used to compute the response time for the incident.

13. DISPUTE RESOLUTION

13.1. The parties desire, if possible, to resolve disputes, controversies, and claims ("Disputes") arising out of this Agreement without litigation. To that end at the written request of a party, each party shall appoint a knowledgeable, responsible management representative to meet and negotiate in good faith to resolve any Dispute arising under this Agreement.

13.2. If the negotiations do not resolve the Dispute within sixty (60) days of the initial written request, the Dispute shall be submitted to non-binding mediation with a mediator chosen by mutual agreement of the parties.

13.3. Each participating party shall bear its own costs of mediation, and the parties shall share equally the fees of the mediator.

14. FORCE MAJEURE

14.1. If any party hereto is rendered unable wholly or in part, by Force Majeure to carry out its obligations under this Agreement, that party shall give to the other parties hereto prompt notice of the Force Majeure with reasonable full particulars concerning it. Thereupon, the obligations of the party giving the notice, so far as they are affected by the Force Majeure, shall be suspended during, but no longer than the continuance of the Force Majeure, except for a reasonable time thereafter required to resume performance.

14.2. During any period in which any party hereto is excused from performance by reason of the occurrence of an event of Force Majeure, the party so excused shall promptly, diligently, and in good faith take all reasonable action required

in order for it to be able to commence or resume performance of its obligations under the Agreement.

14.3. The party whose performance is excused due to the occurrence of an event of Force Majeure shall, during such period, keep the other parties notified of all such actions required in order for it to be able to commence or resume performance of its obligations under the Agreement.

14.4. "Force Majeure" is defined as an act of God, act of public enemy, war, and other causes not reasonably within the control of any parties hereto, but not including events expected as part of the Agency's ordinary business of rescuing persons and extinguishing fires.

15. INDEMNIFICATION

Each party shall be solely responsible for its own acts, and for those of its employees and officers under this Agreement. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, save harmless and defend the other, its officers, 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 indemnifying party.

16. INDEPENDENT CONTRACTOR

Agency is an independent contractor and not an agent of County. Agency will use its own independent judgment in delivering services under this Agreement.

17. INSURANCE

17.1. Agency agrees to furnish County with evidence of comprehensive general liability insurance in the amount of not less than \$500,000 combined single limit per occurrence, \$1,000,000 general annual aggregate, for personal injury and property damage coverage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, damage to property, including loss of use thereof, in any way related to this Agreement. County, at its option, may require a complete copy of the above policy.

17.2. Agency agrees to furnish County with evidence of comprehensive automobile liability insurance in the amount of not less than \$500,000 combined single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, in any way related to this Agreement. The County, at its option, may require a complete copy of the above policy.

17.3. The insurance in paragraphs 17.1 and 17.2 above shall include County as an additional insured and refer to and support the Agency's obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide 30 days written notice to County in the event of cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to County under this insurance. The insurance company will provide written notice to County within thirty (30) days after any reduction in the general annual aggregate limit.

17.4. Agency agrees to furnish County with evidence of professional liability insurance for all activities of Agency arising out of or in connections with this agreement, in an amount no less than \$1,000,000 combined single limit for each occurrence. In the event Agency cannot provide an occurrence policy, Agency shall provide insurance covering claims made as a result of performance of this Agreement and shall maintain such insurance in effect for not less than two (2) years following completion of performance of this Agreement. The County, at its option, may require a complete copy of the above policy.

17.5. All of these policies shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

18. THIRD PARTY BENEFICIARIES

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

19. NONTRANSFERABILITY

Agency may not transfer or assign this Agreement or any interest therein without prior written consent of County.

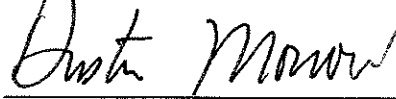
20. ENTIRE AGREEMENT; AMENDMENT; WAIVER

This Agreement constitutes the entire agreement between the parties on the subject matter hereof. No modification or change of terms of this agreement shall bind either party unless in writing and signed by the Agency and the County, and no consent or waiver shall be effective unless in writing and signed by the party against whom such consent or waiver is being enforced. There are no understandings, agreements or representations, oral or written, not specified herein regarding the Agreement.

DATED THIS _____ DAY OF _____, 2014.

COUNTY

TUALATIN VALLEY FIRE AND RESCUE



John Ludlow, Chair
Board of County Commissioners
Clackamas County

Dustin Morrow
Deputy Chief

Attest:

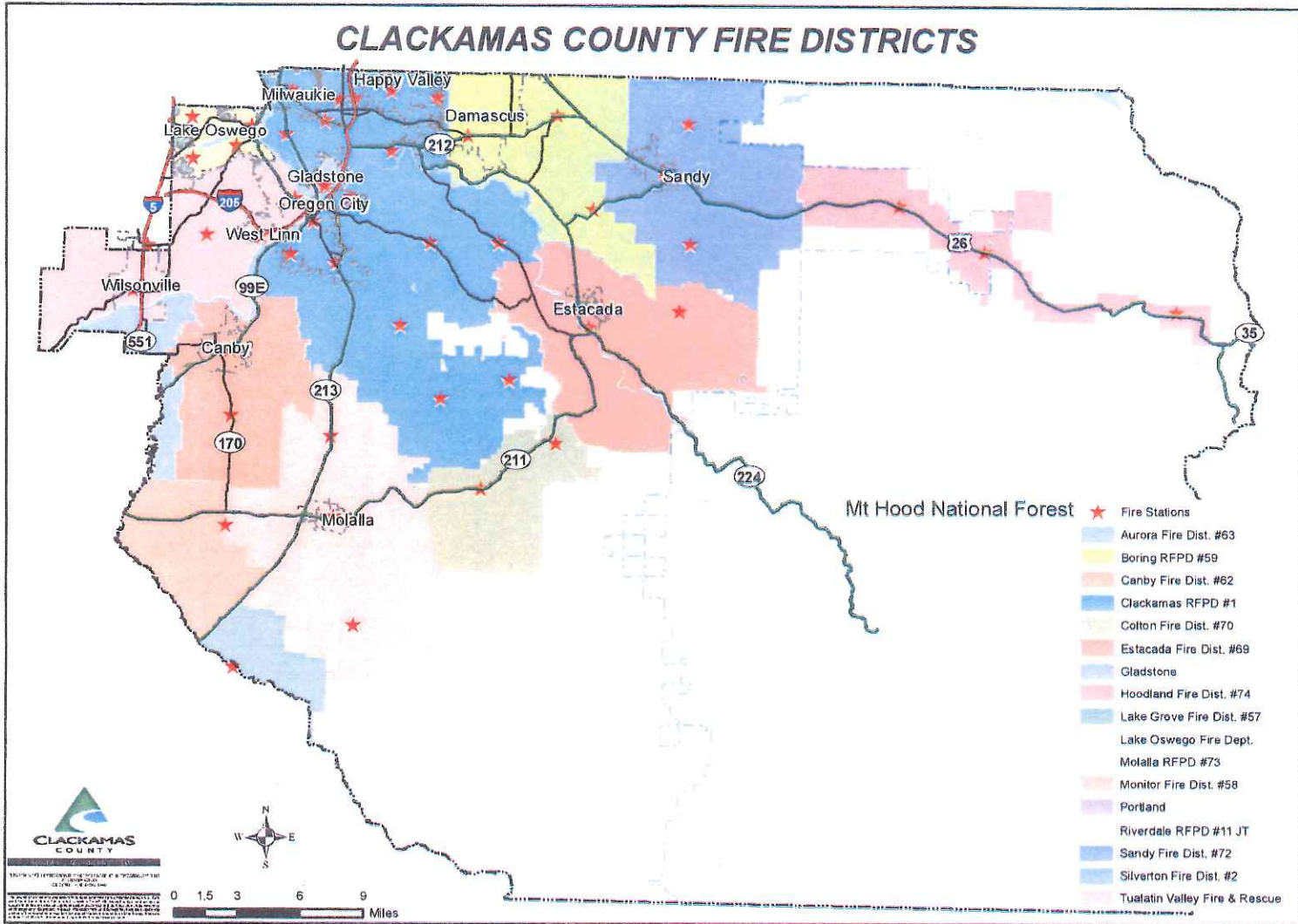
Recording Secretary

Approved as to form:

County Counsel

Attachments: Appendix A - Map

CLACKAMAS COUNTY FIRE DISTRICTS



Appendix A: Fire District Map

6

Approval of Previous Business

Meeting Minutes:

April 3, 2014

(Minutes attached)

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at <http://www.clackamas.us/bcc/business.html>

Thursday, April 3, 2014 - 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

**PRESENT: Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Tootie Smith
Housing Authority Commissioner Paul Reynolds**

EXCUSED: Commissioner Martha Schrader

I. CALL TO ORDER

- Roll Call

Commissioner Schrader is attending another meeting and will not be in attendance today.

- Pledge of Allegiance

The Board will convene as the Housing Authority Board for the first item.

II. HOUSING AUTHORITY CONSENT AGENDA

Chair Ludlow asked the Clerk to read the Housing Authority Consent Agenda by title, he then asked for a motion.

1. Approval of Resolution # 1904: Housing Authority Fiscal Year 2014 Annual Plan

MOTION:

Commissioner Reynolds: I move we approve the Consent Agenda.

Commissioner Bernard: Second

Clerk calls the poll:

Commissioner Reynolds: Aye.

Commissioner Savas: Aye.

Commissioner Smith: Aye.

Commissioner Bernard: Aye.

Chair Ludlow: Aye - the motion passes 5-0.

The Board will adjourned as the Housing Authority Board and convene as the Board of County Commissioners for the remainder of the meeting.

III. PRESENTATION

1. Presentation Acknowledging Child Abuse Prevention Month in Clackamas County
Erin Dean, Children, Youth & Families presented the staff report. She introduced District Attorney, John Foote, Kevin Poppen, Clackamas County Sheriff's Office, Anneleah Jaxen, Executive Director - Jackson, Family Stepping Stones Relief Nursery and Barbara Peschiera, Executive Director - Children Center. Each person spoke about the importance of Child Abuse Prevention – and appreciated the support from Clackamas County.

~Board Discussion~

IV. CITIZEN COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

1. Steve Bates, Boring – spoke in opposition of Business Licenses in Clackamas County.
2. Les Poole, Gladstone – spoke in opposition of Metro and TriMet.
3. Kevin Johnson, Gladstone – spoke regarding WES personnel issue.

~Board Discussion~

4. Barbara Kemper, Clackamas – Clackamas CPO appeals for a proposed sewage facility.

Dan Johnson, Dept. of Transportation & Development gave some back ground on this issue and stated the appeal hearing before the Hearings Officer will be May 15th.

5. Cyndi Lewis-Wolfrum, Milwaukie – Clackamas CPO appeal and Stand up for Veterans event.
6. Mack Woods, Canby – spoke regarding ethics issues.

V. PUBLIC HEARING

1. First Reading of Ordinance No. **01-2014** Amending Title 6 Public Protection of the Clackamas County Code and Adding Section 6.12 Declaring a Moratorium on Medical Marijuana Facilities and Declaring an Emergency

Stephen Madkour, County Counsel presented the staff report.

Chair Ludlow opened the public hearing and stated there are several folks signed up to speak.

1. District Attorney, John Foote, Oregon City – In support of moratorium and ordinance change.
2. Tracy Hoffman, Portland – in support of moratorium and ordinance change.
3. Abigail Wells, Portland – in support of moratorium and ordinance change.
4. William Esbensen, Clackamas – opposes moratorium.
5. Mike Mullins, Happy Valley – opposes moratorium.
6. Jennifer Valley, Happy Valley – opposes moratorium.
7. Les Poole, Gladstone – supports moratorium and ordinance.
8. Tiffany Hicks, Oregon City – supports moratorium and ordinance.
9. Mac Woods, Canby – supports moratorium and ordinance
10. Jim Johnson, Milwaukie – opposes moratorium.
11. Lindsay Reinhardt, Happy Valley – opposes moratorium.
12. Cindy Lewis-Wolfrom, Milwaukie – opposes moratorium, supports regulation.

~Board Discussion~

Commissioner Savas excused

Chair Ludlow asked for a motion to read by title only.

MOTION:

Commissioner Smith: I move we read the ordinance by title only.

Commissioner Bernard: Second

~Board Discussion~

Clerk calls the poll:

Commissioner Smith: Aye.

Commissioner Bernard: Aye.

Chair Ludlow: Aye - the motion passes 3-0.

Chair Ludlow asked the clerk to assign the ordinance a number and read by title only.

~Board Discussion~

The second reading will be on April 24th, 2014

VI. DISCUSSION ITEMS

~NO DISCUSSION ITEMS SCHEDULED

VII. CONSENT AGENDA

Chair Ludlow asked the Clerk to read the Consent Agenda by title, he then asked for a motion.

MOTION:

Commissioner Bernard: I move we approve the Consent Agenda.
Commissioner Smith: Second
Clerk calls the poll:
Commissioner Smith: Aye.
Commissioner Bernard: Aye.
Chair Ludlow: Aye - the motion passes 3-0.

A. Department of Transportation & Development

1. Approval of a Project Memorandum of Agreement with Western Federal Lands Highway Division for the OR Clackamas 37005 (1) Lola Pass Alternatives Study

B. Central Communications (C-COM)

1. Approval of an Intergovernmental Agreement for the Metropolitan Area Joint Computer Aided Dispatch (CAD) System with the City of Lake Oswego Communications and Washington County Consolidated Communications Agency

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

D. Tourism and Cultural Affairs

1. Resolution No. 2014-20 Supporting Efforts to Establish a Willamette State Heritage Area & Urging Designation of Such by the Oregon Heritage Commission

E. Business & Community Services

1. Board Order No. 2014-21 Approving the Clackamas County Public Oral Auction to Disperse Tax Foreclosed and Surplus Properties on May 14, 2014

VIII. WATER ENVIRONMENT SERVICES

1. Approval of a Construction Agreement between Clackamas County Service District No. 1 and Stettler Supply & Construction for the Kellogg Creek WPCP Primary Clarifier No. 1 Rebuild Project

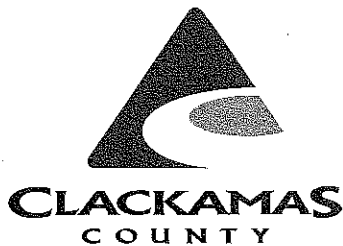
IX. COUNTY ADMINISTRATOR UPDATE

<http://www.clackamas.us/bcc/business.html>

X. COMMISSIONERS COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

Adjourned: 12:45 p.m.



7
NANCY S. BUSH
DIRECTOR

DEPARTMENT OF EMERGENCY MANAGEMENT

April 24, 2014

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

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of FY11 Urban Area Security Initiative (UASI) Intergovernmental Agreement (IGA) Amendment #2 between Clackamas County and the City of Portland

Purpose/Outcomes	Approving the FY11 UASI IGA Amendment #2 between Clackamas County and the City of Portland will extend the grant end date from March 31, 2014 to July 31, 2014. The FY11 UASI IGA provides funding for Homeland Security related regional and local law enforcement, fire, public works and emergency management projects. Extending the deadline from March to July allows Clackamas County sub-recipients to receive more than \$50,000 in equipment that would have not been awarded had the grant ended in March.
Dollar Amount and Fiscal Impact	The UASI grant is a 100% federal share grant. Clackamas County acts as the pass-through for grant funds to sub-recipients, receiving full reimbursement for any expenses incurred. Approval of this IGA Amendment #2 will allow more than \$50,000 in equipment to be received by Clackamas County sub-recipients.
Funding Source	The United States Department of Homeland Security, Federal Emergency Management Agency - no County General Funds are involved.
Safety Impact	Clackamas County sub-recipients will enhance emergency/disaster response equipment capability with funds from this grant.
Duration	The FY11 UASI grant award period is from March 1, 2012 through July 31, 2014.
Previous Board Action	The FY11 UASI IGA Amendment #1 was approved by the Board of County Commissioners in a business meeting on May 31, 2012.
Contact Person	Sarah Stegmuller Eckman, Administrative Services Manager, 503-650-3381
Contract No.	N/A

BACKGROUND:

Clackamas County is a signatory to an Intergovernmental Agreement with the City of Portland that requires the County to be the sponsoring, or pass-through, agency for other county agencies and special districts that receive funding or benefit from UASI grants. Approval of the FY11 UASI IGA Amendment #2 will allow Clackamas County sub-recipients to receive grant awards that would not have been available had the grant ended at the end of March.

The agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends approval of the FY11 UASI IGA Amendment #2 between Clackamas County and the City of Portland.

Respectfully submitted,


Nancy Bush, Director

AMENDMENT NO 2
CONTRACT NO. 30002299
FOR
Clackamas County

Pursuant to Ordinance No. 185456

The **Intergovernmental Agreement ("IGA")** was made and entered into by and between Clackamas County, hereinafter called "Recipient", and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City.

RECITALS:

1. The Urban Areas Security Initiative (UASI) FY 2011 grant has been awarded from the US Department of Homeland Security (Grantor) through the State (Grantee) for administration by the City of Portland (Subgrantee).
2. The disposition of the grant funds to different governmental bodies, and the City, was achieved through intergovernmental agreements (IGAs) between the City and these entities. One such agreement was entered into between the City of Portland and Recipient.
3. The City further wishes to amend its IGA with the Recipient to extend the time of its operation.

NOW, THEREFORE, the parties agree:

1. To comply with all terms of the U. S Department of Homeland Security, Urban Area Security Initiative (UASI) Grant CFDA # 97.008, Grant No. 11-170 award including, but not limited to, obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds.
2. Section 3 is amended to read as follows:
Effective Date and Duration: This IGA shall be effective from the date all parties have signed and shall be terminated on 7/31/2014 unless otherwise extended by the parties in writing or this IGA is terminated due to failure of one of the Parties to perform.

All other terms and conditions shall remain unchanged and in full force and effect.

This contract amendment may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same contract amendment.

The parties agree the City and Contractor may conduct this transaction by electronic means, including the use of electronic signatures.

Contract No. 30002299 Amendment/Change Order No. 2

CITY OF PORTLAND

Carmen Merlo, Director PBEM
Date: _____

City Attorney
Date: _____

CLACKAMAS COUNTY

Date: _____

Date: 9 April 2014

Office of City Attorney
County Counsel
1 of 1
REV 04/10

AMENDMENT NO 1
CONTRACT NO. 30002299

FOR

Clackamas County

Pursuant to Ordinance No. 185456

The Intergovernmental Agreement ("IGA") was made and entered into by and between Clackamas County, hereinafter called "Recipient", and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City.

RECITALS:

1. The Urban Areas Security Initiative (UASI) FY 2011 grant has been awarded from the US Department of Homeland Security (Grantor) through the State (Grantee) for administration by the City of Portland (Subgrantee).
2. The disposition of the grant funds to different governmental bodies, and the City, was achieved through intergovernmental agreements (IGAs) between the City and these entities. One such agreement was entered into between the City of Portland and Recipient.
3. The City further wishes to amend its IGA with the Recipient to extend the time of its operation.

NOW, THEREFORE, the parties agree:

1. To comply with all terms of the U. S Department of Homeland Security, Urban Area Security Initiative (UASI) Grant CFDA # 97.008, Grant No. 11-170 award including, but not limited to, obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds.
2. Section 3 is amended to read as follows:

Effective Date and Duration: This IGA shall be effective from the date all parties have signed and shall be terminated on 3/31/2014 unless otherwise extended by the parties in writing or this IGA is terminated due to failure of one of the Parties to perform.

All other terms and conditions shall remain unchanged and in full force and effect.

This contract amendment may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same contract amendment.

The parties agree the City and Contractor may conduct this transaction by electronic means, including the use of electronic signatures.

Clackamas County
By: Charlotte Lehan Date: 5-31-12

Charlotte Lehan FLI.
Name

Chair
Title

Manoj D. Dnyal Date: 6/14/12
Signature of Fiscal Representative of the Recipient Agency

Address: 2051 Kaen Rd Oregon City, OR 97045

Telephone: 503.650.3386

Contract No. 30002299

Amendment/Change Order No. 1

Contract Title: Clackamas County IGA

CITY OF PORTLAND SIGNATURES:

By: N/A
Chief Procurement Officer

Date: _____

By: [Signature]
Elected Official

Date: 6/29/2012

Approved:
By: J. Griffin-Valade by DO
Office of City Auditor

Date: 6/29/2012

Approved as to Form: **APPROVED AS TO FORM**
By: James H. Van Dyke
Office of City Attorney
CITY ATTORNEY

Date: 6/20/12

**OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT
URBAN AREA SECURITY INITIATIVE GRANT PROGRAM
CFDA # 97.008**

GRANT AWARD CONDITIONS AND CERTIFICATIONS

PROGRAM NAME:	FY 2011 UASI	GRANT NO:	# 11-170
SUBGRANTEE:	City of Portland	FEDERAL AWARD:	\$4,925,160
ADDRESS:	Portland Bureau of Emergency Management 1001 SW Fifth Ave, Ste 650 Portland, OR 97204	AWARD PERIOD:	3/1/12 thru 5/31/14
PROGRAM CONTACT:	Carmen Merlo carmen.merlo@portlandoregon.gov	TELEPHONE:	(503) 823-2691
FISCAL CONTACT:	Shelli Tompkins shelli.tompkins@portlandoregon.gov	TELEPHONE:	(503) 823-4187

BUDGET

Equipment	
CBRNE Prevention and Response Watercraft	\$320,000
CBRNE Logistical Support	\$315,000
CBRNE Operational/Search and Rescue	\$25,000
Explosive Device Mitigation	\$43,000
Information Technology	\$44,460
Interoperable Communications	\$256,207
Medical	\$90,000
Other Authorized Equipment	\$109,937
Personal Protective Equipment	\$122,000
Power	\$90,000
Terrorism Incident Prevention	\$1,000,000
Exercises	\$513,696
Planning	\$1,520,539
Training (ODP-approved)	\$229,063
Administration	\$246,258
Total	<u>\$4,925,160</u>

GRANT AWARD AGREEMENT AND PROVISIONS

I. Provisions of Award

- A. Agreement Parties. This Agreement is between the State of Oregon, acting by and through the Oregon Military Department, Office of Emergency Management (OEM) and the Subgrantee.
- B. Effective Date. This Agreement shall become effective on the date this Agreement has been fully executed by every party. Agreement termination shall not extinguish or prejudice OEM's right to enforce this Agreement with respect to any default by Subgrantee that has not been cured.
- C. Source of Funds. Payment for this Program will be from the Fiscal Year 2011 Urban Area Security Initiative Grant Program.
- D. Merger Clause; Waiver. This Agreement and referenced documents 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, modifications or change of terms of this Agreement shall be binding unless agreed to in writing and signed by both the Subgrantee and OEM. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given.
- E. Acknowledgment. The Subgrantee, by signature of its authorized representative, hereby acknowledges that he/she has read this Agreement, understands it, and agrees to be bound by its terms and conditions (including all references to other documents). Failure to comply with this Agreement and with applicable state and federal rules and guidelines may result in the withholding of reimbursement, the termination or suspension of the Agreement, denial of future grants, and/or damages to OEM.

TERMS AND CONDITIONS

II. Conditions of Award

- A. The Subgrantee agrees that all allocations and use of funds under this Agreement will be in accordance with the Homeland Security Grant Program guidance and application kit and to expend funds in accordance with the approved budget. OEM may withhold funds for any expenditure not within the approved budget or in excess of amounts approved by OEM. Failure of the Subgrantee to operate the program in accordance with the written agreed upon objectives contained in the grant application and budget will be grounds for immediate suspension and/or termination of this Agreement.
- B. To ensure consistency among statewide planning efforts, the Subgrantee agrees to coordinate grant funded planning projects with OEM, to include assistance with the creation of a scope of work, review and approval of service providers, and overall project direction.
- C. The Subgrantee agrees that funds utilized to establish or enhance state and local fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines and achievement of a baseline level of capability as defined by the Fusion Capability Planning Tool.
- D. The Subgrantee agrees that all publications created with funding under this grant shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."
- E. The Subgrantee agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this Agreement.
- F. By accepting FY 2011 funds, the Subgrantee certifies that it has met NIMS compliance activities outlined in the NIMS Implementation Matrix for State, Tribal, or Local Jurisdictions. Additional information on achieving compliance is available through the NIMS Resource Center at <http://www.fema.gov/emergency/nims/>.

G. Administrative Requirements, Retention and Access to Records, and Audits.

1. Administrative Requirements. The Subgrantee agrees to comply with all financial management and procurement requirements (Section H), including competitive bid processes and other procurement requirements, and to maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR) and the Office of Management and Budget (OMB) Circulars. A nonexclusive list of regulations commonly applicable to DHS grants includes:
 - a. Administrative Requirements. 44 CFR Part 13 (State and Local Governments).
 - b. Cost Principles. 2 CFR Part 225 (State, Local, and Tribal Governments) and 48 CFR Part 31.2 (Federal Acquisition Regulations - Contracts with Commercial Organizations).
 - c. Audit Requirements. OMB Circular A-133 (States, Local Governments, and Non-Profit Organizations).
2. Retention of Records. All financial records, supporting documentation, and all other records pertinent to this grant or agreements under this grant shall be retained by the Subgrantee for a minimum of six years following termination, completion or expiration of this Agreement for purposes of State of Oregon or Federal examination and audit. It is the responsibility of the Subgrantee to obtain a copy of 44 CFR Part 13 and all applicable OMB Circulars, and to apprise itself of all rules and regulations set forth.
3. Access to Records. OEM, Oregon Secretary of State, Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of the Subgrantee and any contractors or subcontractors of the Subgrantee, which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. The right of access is not limited to the required retention period but shall last as long as the records are retained.
4. Audits. If the Subgrantee expends \$500,000 or more in Federal funds (from all sources) in its fiscal year, the Subgrantee shall have a single organization-wide audit conducted in accordance with the provisions of OMB Circular A-133. Copies of all audits must be submitted to OEM within 30 days of completion. If the Subgrantee expends less than \$500,000 in its fiscal year in Federal funds, the Subgrantee is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section II.G.3 herein.
5. Audit Costs. Audit costs for audits not required in accordance with OMB Circular A-133 are unallowable. If the Subgrantee did not expend \$500,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.

H. Procurement Standards.

1. The Subgrantee shall use their own procurement procedures provided that the procurement conforms to applicable Federal (44 CFR Part 13.36) and State law (ORS 279A, 279B, 279C) and standards.
2. The Subgrantee agrees to provide the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the federal Davis-Bacon Act (40 U.S.C. 3141 et seq.) that must be paid to workers in each trade or occupation that is used in performing all or part of this Agreement.
3. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to the Subgrantee. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
4. The Subgrantee shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or

draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OEM.

5. The Subgrantee agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

I. Property/Equipment Management and Records Control, and Retention of Records.

1. Property/Equipment Management and Records Control. The Subgrantee agrees to comply with all requirements set forth in 44 CFR Part 13.31-33 for the active tracking and monitoring of property/equipment. Procedures for managing property/equipment, whether acquired in whole or in part with grant funds, until disposition takes place, will, at a minimum, meet the following requirements:
 - a. All property/equipment purchased under this Agreement, whether by the Subgrantee or a subcontractor, will be recorded and maintained in the Subgrantee's property/equipment inventory system.
 - b. The Subgrantee shall maintain property/equipment records that include: a description of the property/equipment; the manufacturer's serial number, model number, or other identification number; the source of the property/equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; who holds title; the acquisition date; the cost of the property/equipment and the percentage of Federal participation in the cost; the location, use and condition of the property/equipment; and any ultimate disposition data including the date of disposal and sale price of the property/equipment.
 - c. A physical inventory of the property/equipment must be taken and the results reconciled with the property/equipment records, at least once every two years.
 - d. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property/equipment. Any loss, damage, or theft shall be investigated.
 - e. Adequate maintenance procedures must be developed to keep the property/equipment in good condition.
 - f. If the Subgrantee is authorized to sell the property/equipment, proper sales procedures must be established to ensure the highest possible return.
 - g. The Subgrantee agrees that, when practicable, any property/equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security".
 - h. The Subgrantee shall pass on property/equipment management requirements that meet or exceed the requirements outlined above for all subcontractors, consultants, and the subgrantees who receive pass-through funding from this Agreement.
2. Retention of Property/Equipment Records. Records for property/equipment shall be retained for a period of six years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. Title to all property/equipment and supplies purchased with funds made available under the Urban Area Security Initiative Grant Program shall vest in the Subgrantee agency that purchased the property/equipment, if it provides written certification to OEM that it will use the property/equipment for purposes consistent with the Urban Area Security Initiative Grant Program.

J. Funding.

1. Matching Funds. This Grant does not require matching funds.
2. Allowable Costs. The Subgrantee agrees that all allocations and use of funds under this Agreement will be in accordance with the Fiscal Year 2011 Homeland Security Grant Program guidance and application kit.
3. Supplanting. The Subgrantee certifies that federal funds will not be used to supplant state or local funds, but will be used to increase the amount of funds that, in the absence of federal aid, would be made available to the Subgrantee to fund programs consistent with Urban Area Security Initiative Grant Program guidelines.

K. Reports. Failure of the Subgrantee to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues may result in the suspension of grant payments and/or termination of this Agreement.

1. Performance Reports.

The Subgrantee agrees to submit performance reports on its progress in meeting each of its agreed upon goals and objectives. The narrative reports will address specific information regarding the activities carried out under the FY 2011 Urban Area Security Initiative Grant Program and how they address identified project specific goals and objectives.

Reports are due to OEM by the end of each calendar year quarter.

Any Performance Report that is outstanding for more than one month past the due date may cause the suspension and/or termination of the grant. The Subgrantee must receive prior written approval from OEM to extend a performance report requirement past its due date.

2. Financial Reimbursement Reports.

- a. In order to receive reimbursement, the Subgrantee agrees to submit a signed Request for Reimbursement (RFR) which includes supporting documentation for all grant expenditures. RFRs may be submitted monthly but no less frequently than quarterly during the term of this Agreement. At a minimum, RFRs must be submitted no later than one month following the end of each calendar year quarter, and a final RFR must be submitted no later than one month following the end of the grant period.
- b. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- c. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- d. Reimbursements will only be made for actual expenses incurred during the grant period. The Subgrantee agrees that no grant funds may be used for expenses incurred before March 1, 2012 or after May 31, 2014.
- e. The Subgrantee shall be accountable for and shall repay any overpayment, audit disallowances or any other breach of grant that results in a debt owed to the Federal Government. OEM shall apply interest, penalties, and administrative costs to a delinquent debt owed by a debtor pursuant to the Federal Claims Collection Standards and OMB Circular A-129.

3. Audit Reports. The Subgrantee shall provide OEM copies of all audit reports pertaining to this Agreement obtained by the Subgrantee, whether or not the audit is required by OMB Circular A-133.

L. Indemnification.

The Subgrantee shall, to the extent permitted by the Oregon Constitution and by the Oregon Tort Claims Act, defend, save, hold harmless, and indemnify the State of Oregon, OEM, and their officers, employees, agents, and members from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities of the Subgrantee, its officers, employees, subcontractors, or agents under this Agreement.

The Subgrantee shall require any of its contractors or subcontractors to defend, save, hold harmless and indemnify the State of Oregon, OEM, and their officers, employees, agents, and members, from all claims, suits or actions of whatsoever nature resulting from or arising out of the activities of subcontractor under or pursuant to this Agreement.

The Subgrantee shall, if liability insurance is required of any of its contractors or subcontractors, also require such contractors or subcontractors to provide that the State of Oregon, OEM, and their officers, employees and members are Additional Insureds, but only with respect to the contractor's or subcontractor's services performed under this Agreement.

- M. Time is of the Essence. The Subgrantee agrees that time is of the essence under this Agreement.
- N. Copyright. If this Agreement or any program funded by this Agreement results in a copyright, OEM and the U.S. Department of Homeland Security reserve a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and authorize others to use, for government purposes, the work or the copyright to any work developed under this Agreement and any rights of copyright to which the Subgrantee, or its contractor or subcontractor, purchases ownership with grant support.
- O. Governing Law, Venue; 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 OEM (and/or any other agency or department of the State of Oregon) and the Subgrantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for the State of Oregon; provided, however, if the 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, from any claim or from the jurisdiction of any court. **The Subgrantee, by execution of this Agreement, hereby consents to the In Personam Jurisdiction of said courts, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.**
- P. Notices. Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same by registered or certified mail, postage prepaid to the Subgrantee or OEM at the address or number set forth on page 1 of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.
- Q. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of OEM, the Subgrantee, and their respective successors and assigns, except that the Subgrantee may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of OEM.
- R. Survival. All provisions of this Agreement set forth in the following sections shall survive termination of this Agreement: Section II.G (Administrative Requirements, Retention and Access to Records, and Audits); Section II.H (Procurement Standards); Section II.I (Property/Equipment Management and Records Control, and Retention of Records); Section II.K (Reports); and Section III (Indemnification).
- S. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- T. Relationship of Parties. The parties agree and acknowledge that their relationship is that of independent contracting parties and neither party hereto shall be deemed an agent, partner, joint venturer or related entity of the other by reason of this Agreement.

III. Subgrantee Compliance and Certifications

- A. Debarment, Suspension, Ineligibility and Voluntary Exclusion. The Subgrantee certifies by accepting funds under this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency. (This certification is required by regulations published May 26, 1988, implementing Executive Order 12549, Debarment and Suspension, 44 CFR Part 17.) The Subgrantee shall establish procedures to provide for effective use and/or dissemination of the Excluded Parties List (<http://www.epls.gov/>) to assure that their contractors are not in violation of the nonprocurement debarment and suspension common rule.
- B. Standard Assurances and Certifications Regarding Lobbying. The Subgrantee is required to comply with 44 CFR Part 18, *New Restrictions on Lobbying* (http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr18_07.html). The restrictions on lobbying are enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per expenditure. The Subgrantee understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.
- C. Compliance with Applicable Law. The Subgrantee agrees to comply with all applicable laws, regulations, program guidance, and guidelines of the State of Oregon, the Federal Government and OEM in the performance of this Agreement, including but not limited to:
1. Administrative Requirements set forth in 44 CFR Part 13.
 2. Cost Principles set forth in 2 CFR Part 225 and 48 CFR Part 31.2.
 3. Audit Requirements set forth in OMB Circular A-133.
 4. The provisions set forth in 44 CFR Part 7; Part 9; Part 10; and Federal laws or regulations applicable to Federal assistance programs.
 5. The Freedom of Information Act (FOIA), 5 U.S.C. §552 with consideration of State and local laws and regulations regarding the release of information and regulations governing Sensitive Security Information (49 CFR Part 1520).
- D. Non-discrimination and Civil Rights Compliance, Equal Employment Opportunity Program, and Services to Limited English Proficient (LEP) Persons.
1. Non-discrimination and Civil Rights Compliance. The Subgrantee, and all its contractors and subcontractors, certifies that no person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any activity funded under this Agreement on the basis of race, color, age, religion, national origin, disability, or gender. The Subgrantee, and all its contractors and subcontractors, assures compliance with all applicable nondiscrimination laws, including but not limited to:
 - a. Nondiscrimination Regulation 44 CFR Part 7;
 - b. Title II of the Americans with Disabilities Act (ADA) of 1990;In the event that a Federal or State court or administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, age, religion, national origin, disability or gender against the Subgrantee or any of its contractors or subcontractors, the Subgrantee or any of its contractors or subcontractors will forward a copy of the finding to OEM.
 2. Equal Employment Opportunity Program. The Subgrantee, and any of its contractors and subcontractors, certifies that an equal employment opportunity program will be in effect on or before the effective date of this Agreement. The Subgrantee must maintain a current copy on file.
 3. Services to Limited English Proficient (LEP) Persons. National origin discrimination includes discrimination on the basis of limited English proficiency. Recipients of federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important benefits, programs, information and services. For additional information, please see <http://www.lep.gov>.

E. Environmental and Historic Preservation.

1. The Subgrantee shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable environmental and historic preservation laws including but not limited to:
 - a. National Environmental Policy Act (44 CFR Part 10)
 - b. National Historic Preservation Act,
 - c. Endangered Species Act, and
 - d. Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).

Failure of the Subgrantee to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding.

2. The Subgrantee shall not undertake any project without prior EHP approval by FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings, structures, and objects that are 50 years old or greater. The Subgrantee must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the Subgrantee must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the Subgrantee will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Any construction activities that have been initiated without the necessary EHP review and approval will result in a non-compliance finding and will not be eligible for FEMA funding.
3. For any of the Subgrantee's or its contractors' or subcontractors' existing programs or activities that will be funded by these grant funds, the Subgrantee, upon specific request from the U.S. Department of Homeland Security, agrees to cooperate with the U.S. Department of Homeland Security in any preparation by the U.S. Department of Homeland Security of a national or program environmental assessment of that funded program or activity.

F. Drug Free Workplace Requirements. The Subgrantee certifies that it will provide a drug-free workplace. There are two general requirements if you are a recipient other than an individual.

1. You must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. Briefly, those measures are to:
 - a. Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see 44 CFR Part 17.6); and
 - b. Take actions concerning employees who are convicted of violating drug statutes in the workplace.
2. You must identify all known workplaces under your Federal awards.

Additional information can be referenced at: http://www.access.gpo.gov/nara/cfr/waisidx_08/44cfrv1_08.html.

G. Classified National Security Information. No funding under this award shall be used to support a contract, subaward or other agreement for goods or services that will include access to classified national security information if the award recipient has not been approved for and has access to such information. Classified national security information as defined in Executive Order (EO) 12958, as amended, means information that has been determined pursuant to EO 12958 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

H. Human Trafficking. The Subgrantee, employees, contractors and subrecipients under this award and their respective employees may not:

1. Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
2. Procure a commercial sex act during the period of time the award is in effect; or
3. Use forced labor in the performance of the award or subawards under the award.

The Subgrantee must inform OEM immediately of any information the Subgrantee receives from any source alleging a violation of any of the above prohibitions in this award term. OEM's right to terminate unilaterally is in addition to all other remedies under this award. The Subgrantee must include these requirements in any subaward made to public or private entities.

IV. Suspension or Termination of Funding

OEM may suspend funding in whole or in part, terminate funding, or impose another sanction on a Urban Area Security Initiative Grant Program recipient for any of the following reasons:

- A. Failure to comply substantially with the requirements or statutory objectives of the Urban Area Security Initiative Grant Program guidelines issued thereunder, or other provisions of federal law.
- B. Failure to make satisfactory progress toward the goals and objectives set forth in the approved Project Justification(s).
- C. Failure to adhere to the requirements of the grant award and standard or special conditions.
- D. Proposing or implementing substantial plan changes to the extent that, if originally submitted, the application would not have been selected.
- E. Failing to comply substantially with any other applicable federal or state statute, regulation, or guideline. Before imposing sanctions, OEM will provide reasonable notice to the Subgrantee of its intent to impose sanctions and will attempt to resolve the problem informally.

V. Termination of Agreement

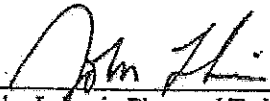
OEM may unilaterally terminate all or part of this Agreement or may reduce its scope of work if there is:

- A. A reduction in federal funds which are the basis for this Agreement.
- B. A material misrepresentation, error, or inaccuracy in Subgrantee's application.
- C. A change, modification or interpretation of State or Federal laws, regulations or guidelines that deprives OEM of authority to provide grant funds for the program or provide funds from the planned funding source.

VI. Subgrantee Representations and Warranties

The Subgrantee represents and warrants to OEM as follows:

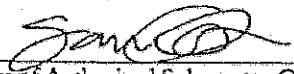
- A. **Existence and Power.** The Subgrantee is a political subdivision of the State of Oregon. The Subgrantee has full power and authority to transact the business in which it is engaged and full power, authority, and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.
- B. **Authority, No Contravention.** The making and performance by the Subgrantee of this Agreement (a) have been duly authorized by all necessary action of the Subgrantee, (b) do not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative agency or any provision of the Subgrantee's articles of incorporation or bylaws 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 the Subgrantee is a party or by which the Subgrantee or any of its properties are bound or affected.
- C. **Binding Obligation.** This Agreement has been duly authorized, executed and delivered on behalf of the Subgrantee and constitutes the legal, valid, and binding obligation of the Subgrantee, enforceable in accordance with its terms.
- D. **Approvals.** 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 the Subgrantee of this Agreement.



 John L. Lewis, Plans and Training Section Director
 Oregon Military Department
 Office of Emergency Management
 PO Box 14370
 Salem, OR 97309-5062

11 APR 2012

 Date



 Signature of Authorized Subgrantee Official

3/30/2012

 Date

SAM ADAMS / MAYOR

 Name/Title



 Signature of Authorized Fiscal Representative of Subgrantee Agency

4/4/12

 Date

Shellie Tompkins, Sr. Management Analyst

 Name/Title

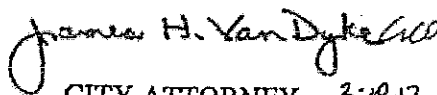
Reviewed for Legal Sufficiency:

Steven A. Wolf by email
 Assistant Attorney General

APPROVED AS TO FORM

March 2, 2012

 Date



 CITY ATTORNEY 3-18-12

FY 2011 UASI Grant Budget

Item No.	Investment Name	Agency/Bureau	Category (Solution Area)	Subcategory	Item	Original Budget	Discipline
UA11-0003	Collaborative Regional Planning	Clack Co EM	planning	personnel	regional staff	\$ 111,111.00	EM
UA11-0010	Citizen Preparedness	Regional	equipment	Other - Citizen Corps Equipment	CERT, VIPS and MRC equipment	\$ 15,980.00	CC
UA11-0011	Citizen Preparedness	Regional	planning	education and outreach	banners and display board	\$ 3,000.00	CC
UA11-0012	Citizen Preparedness	Regional	training	training	Citizen Corps classes (MRC, VIPS, Fire Corps and CERT)	\$ 7,572.00	CC
UA11-0021	Citizen Preparedness	Clack Co EM	planning	education and outreach	Emergency preparedness calendars - printing and translation	\$ 30,000.00	CC
UA11-0022	Citizen Preparedness	Regional	training	training	Venue and equipment use Contractor for creation of workbook, and recruitment materials, Workbooks	\$ 40,000.00	CC
UA11-0023	Citizen Preparedness	Clack Co EM	training	training	NW Regional CERT Rodeo	\$ 12,000.00	CC
UA11-0026	Interoperable Communications & Information Sharing	Clack Co EM	equipment	Information technology	WebEOC software upgrades, maintenance and tech support	\$ 14,295.00	EM
UA11-0042	Regional Incident Response & Recovery	Lake Oswego PW	equipment	power equipment	generator	\$ 90,000.00	PW



NANCY S. BUSH
DIRECTOR

DEPARTMENT OF EMERGENCY MANAGEMENT

April 24, 2014

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

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of FY11 Urban Area Security Initiative (UASI)
Local Grant Agreement (LGA) with Boring Water District #64

Purpose/Outcomes	Approving the FY11 LGA between Clackamas County and Boring Water District #64 allows the water district to receive and/or benefit from UASI grant funds that pass through Clackamas County.
Dollar Amount and Fiscal Impact	The UASI grant is a 100% federal share grant. Clackamas County acts as the pass-through for grant funds to sub-recipients, receiving full reimbursement for any expenses incurred. Upon approval of the LGA, Boring Water District #64 will be eligible to receive a \$3,100 gas monitoring equipment package for use in public works and emergency/disaster operations.
Funding Source	The United States Department of Homeland Security, Federal Emergency Management Agency - no County General Funds are involved.
Safety Impact	Boring Water District #64 will be able to enhance its emergency/disaster response equipment capability with funds from this grant.
Duration	The FY11 UASI grant award period is from March 1, 2012 through July 31, 2014.
Previous Board Action	The FY11 UASI LGA was reviewed by the Board of County Commissioners in a study session on January 29, 2013. Formal approval of the document was made during the February 7, 2013 business meeting – agenda item 020713-C1.
Contact Person	Sarah Stegmuller Eckman, Administrative Services Manager, 503-650-3381
Contract No.	N/A

BACKGROUND:

Clackamas County is a signatory to an Intergovernmental Agreement with the City of Portland that requires the County to be the sponsoring, or pass-through, agency for other county agencies and special districts that receive funding or benefit from UASI grants. Approval of the FY11 UASI LGA with Boring Water District #64 will allow the water district to receive a \$3,100 gas monitoring equipment package. Additionally, the water district will be eligible to benefit from any future FY11 UASI funding opportunities.

The agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends approval of the FY11 UASI LGA between Clackamas County and Boring Water District #64.

Respectfully submitted,

Nancy Bush, Director

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

THIS IS an intergovernmental agreement (Agreement) between Clackamas County, Oregon ("County") and the Boring Water District ("Sub-recipient") entered into pursuant to the authority granted in Oregon Revised Statutes (ORS) Chapter 190 for the coordination of activities related to use of the United States Department of Homeland Security's Urban Areas Security Initiative (UASI) grant program funds for addressing the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas to assist in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.

SECTION I. RECITALS

WHEREAS, the United States Department of Homeland Security, Federal Emergency Management Sub-recipient (FEMA) Grant Programs Directorate, provided UASI grant funding in the amount of \$4,925,160, in Fiscal Year 2011 to the state of Oregon (State) for distribution to the Portland Urban Area (PUA); and

WHEREAS, the State awarded UASI Grant #11-170 (CFDA #97.008) to the City of Portland, Bureau of Emergency Management (PBEM) (referred to as Portland Office of Emergency Management (POEM) in all other referenced documents, currently named PBEM), as sub grantee, for Fiscal Year 2011 in the amount of \$4,668,953, a copy of which is attached to this Agreement and incorporated herein as Exhibit A; and

WHEREAS, UASI Grant #11-170 is intended to increase the capabilities of the PUA, which includes jurisdictions, agencies, and organizations in Multnomah, Clackamas, Columbia, and Clackamas counties in Oregon and Clark County in Washington, to prevent, protect against, respond to, and recover from threats and acts of terrorism; and

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

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

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

WHEREAS, the City of Portland and all other PUA jurisdictions, agencies, and organizations that receive direct benefit from UASI grant purchases are required to comply with all terms of the UASI Grant # 11-170 award including, but not limited to,

obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds; and

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

WHEREAS, upon acceptance and signature of this Local Government Agreement, the sub-recipient becomes eligible to receive UASI FY2011 funding.

NOW, THEREFORE, the parties agree as follows:

1. The County agrees:

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

2. The Sub-recipient agrees:

a) That it has read the award conditions and certifications for UASI Grant #11-170, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the City of Portland, as grantee, under those grant documents.

b) To comply with all City of Portland and State financial management and procurement requirements, including competitive bid processes, and to maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR) and Office of Management and Budget (OMB) circulars. A nonexclusive list of regulations commonly applicable to DHS grants includes:

i. Administrative Requirements: 44 CFR Part 13 (State and Local Governments) and 2 CFR Part 215 (Non-Profit Organizations).

ii. Cost Principles: 2 CFR Part 225 (State, Local, and Tribal Governments); Part 230 (Non-Profit Organizations); and Federal Acquisition Regulations (FAR) Part 31.2 (Contracts with Commercial Organizations).

iii. Audit Requirements: OMB Circular A-133.

- c) That all equipment, supplies, and services provided by the City of Portland are as described in the approved grant budget documents, which the Sub-recipient has seen.
- d) That it will not deviate from the items listed in the approved grant budget documents without first securing written authority from the City of Portland.
- e) To comply with all property and equipment tracking and monitoring processes required by the grants, this Agreement, the City of Portland, Clackamas County and the State.
- f) To treat all single items of equipment valued over \$5,000 as fixed assets and to provide the City of Portland with a list of such equipment. The list should include, but is not limited to, dates of purchase, equipment description, serial numbers, and locations where the equipment is housed or stored. All requirements for the tracking and monitoring of fixed assets are set forth in 44 CFR Part 13.
- g) To maintain and store all equipment and supplies, provided or purchased, in a manner that will best prolong its life and keep it in good working order at all times.
- h) That regardless of how it is procured, all equipment and supplies purchased shall be owned by the Sub-recipient until proper disposition takes place. The Sub-recipient shall be responsible for inventory tracking, maintenance, and storage while in possession of such equipment and supplies.
- i) That any request or invoice it submits for reimbursement of costs is consistent with the items identified in the approved grant budget documents.
- j) That it understands and accepts full financial responsibility and may not be reimbursed for costs incurred which have not been approved by the City of Portland, State, and the U.S. Department of Homeland Security, FEMA Grant Programs Directorate.
- k) That all publications created with funding under this grant shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."

- l) That all financial records and supporting documentation, and all other records pertinent to this grant or agreements under this grant, shall be retained for a minimum of six years following termination, completion, or expiration of this Agreement for purposes of City of Portland, State, or federal examination and audit.
- m) To obtain a copy of 44 CFR Part 13 and all applicable OMB circulars, and to apprise itself of all rules and regulations set forth.
- n) Not to supplant its local funds with federal and to, instead, use the federal funds to increase the amount of funds that, in the absence of federal aid, would be made available to fund programs within the UASI grant program guidelines.
- o) To list the City of Portland as a party to be held harmless and, subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, indemnified by the Sub-recipient and any contractor or sub-contractor thereof, for any injury to person or property arising out of the equipment, supplies, or services provided under this Agreement, and as a party to whom a listed duty is due.
- p) To comply with National Incident Management System (NIMS) objectives identified as requirements by the State.
- q) To comply with all applicable federal, state, and local environmental and historic preservation (EHP) requirements and provide information requested to ensure compliance with applicable laws.
- r) To provide timely compliance with all reporting obligations required by the grant's terms and the City of Portland.
- s) To provide the City of Portland with Performance Reports, Financial Reimbursement Reports, and Audit Reports when required by the City of Portland and in the form required by the City of Portland.
 - i. Performance Reports are due to PBEM biannually on June 15th and December 15th during the term of the grant agreement. Late Performance Reports could result in the suspension and/or termination of the grant.
 - ii. Financial Reimbursement Reports are due no less frequently than quarterly during the term of the grant agreement. Late Financial Reimbursement Reports could result in the suspension and/or termination of the grant.

iii. Per UASI Grant #11-170, Section K.2.b., reimbursement for expenses may be withheld if performance reports are not submitted by the specified dates or are incomplete.

- t) To follow the travel expense and per diem guidelines set forth by the U.S. General Services Administration (GSA) as well as the guidelines of the City of Portland and State. Per UASI Grant #11-170, Section K.2.c., reimbursements rates for travel expenses shall not exceed those allowed by the State. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expense or authorized rates incurred.

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

The City of Portland's guidelines can be found on the Office of the City Auditor's website:

BCP-FIN-6.13 Travel:

<http://www.portlandonline.com/auditor/index.cfm?&c=34747&a=160271>

BCP-FIN-6.14 Non-travel Meals, Light Refreshments and Related Miscellaneous Expenses:

<http://www.portlandonline.com/auditor/index.cfm?&a=160283&c=34747>

- u) To comply with all of its obligations under this Agreement and any applicable, incorporated document or documents.
3. **Effective Date and Duration.** This Agreement shall be effective from the date both parties have signed and shall be terminated on May 31, 2014, unless otherwise extended by the parties in writing or terminated due to failure of one of the Parties to perform.
4. **Amendment.** This Agreement may be modified or amended only by the written agreement of both parties but must remain consistent with the requirements of the UASI program grant, the agreement between the State and the City of Portland, and the City of Portland's UASI grant agreement with the County.
5. **Termination.** Either party may terminate this Agreement in the event the other fails to comply with its obligations under the Agreement. If the Agreement is terminated due to the Sub-recipient's failure or inability to comply with the provisions of the grant or the Agreement, the Sub-recipient will be liable to the City of Portland for the full cost of any equipment, materials, or services provided by the City of Portland to the Sub-recipient, and any penalties imposed by the State or Federal Government. Each party will notify the other, in writing, of its intention to terminate this Agreement and the reasons therefore. The other party shall have fourteen days, or such other time as the parties may agree, from the

date of the notice in which to correct or otherwise address the compliance failure which is the subject of the notice.

6. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State, without regard to principles of conflicts of law. Any claim, action, suit or proceeding that arises from or relates to this Agreement shall be brought and conducted exclusively within the Circuit Court of Clackamas County for the state of Oregon. In the event a claim is brought in a federal forum, then it shall be brought and conducted solely and exclusively in the United States District Court for the District of Oregon.
7. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
8. **Survival.** The terms, conditions, representations, and all warranties in this Agreement shall survive the termination or expiration of this Agreement.
9. **Force Majeure.** Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond reasonable control. Each party shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement.
10. **Indemnification.**
 - a) Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the Sub-recipient shall indemnify, defend and hold harmless the County, its commissioners, employees and agents from and against any and all liability, claims, damages, losses, and expenses, including but not limited to reasonable attorneys fees arising out of or resulting from the acts of the Sub-recipient, its officers, employees, and agents in the performance of this Agreement.
11. **Third Party Beneficiaries.** The County and the Sub-recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such persons are individually identified by name herein.
12. **Successors in Interest.** The terms of this Agreement shall be binding upon the successors and assigns of each party hereto.
13. **Entire Agreement.** The parties agree and acknowledge that this Agreement is a complete, integrated agreement that supersedes any prior understandings related

to implementation of the FY-11 UASI program grant and that it is the entire agreement between them relative to that grant.

14. **Worker's Compensation.** Each party shall be responsible for providing worker's compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027). Neither party shall be required to provide or show proof of any other insurance coverage.
15. **Nondiscrimination.** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
16. **Access to Records.** Each party shall maintain, and shall have access to the books, documents, papers, and other records of the other party which are related to this Agreement for the purpose of making audit, examination, excerpts, and transcripts. Copies of applicable records shall be made available upon request. Access to records for Oregon Emergency Management (OEM), the Oregon Secretary of State, the Office of the Comptroller, the General Accounting Office (GAO), or any of their authorized representatives, shall not be limited to the required retention period but shall last as long as records are retained.
17. **Subcontracts and Assignment.** Neither party will subcontract or assign any part of this Agreement without the prior written consent of the other party. Notwithstanding County approval of a subcontractor, the Sub-recipient shall remain obligated for full performance hereunder, and the County shall incur no obligation other than its obligations to the Sub-recipient hereunder.

County program liaison for this Agreement is:

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

Sub-recipient liaison for this Agreement is:

Name: Kary Alexander
Jurisdiction/District: Boring Water District
Address: P.O. Box 66 Boring, OR 97009
Phone: 503-663-4594

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

CLACKAMAS COUNTY, a political subdivision of the State of Oregon

By: _____

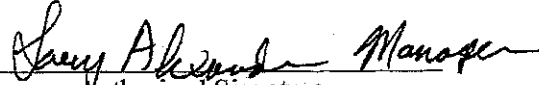
Date: _____, 2014

Approved as to form

By:  _____
County Counsel

Date: 4/10/ _____, 2014

SUB-RECIPIENT

By:  _____
Authorized Signature

For: Boring water Dist. #64
Sub-recipient

Date: 4-8- _____, 2014

Approved as to form

By: _____
Attorney

Date: _____, 2014

AMENDMENT NO 1
CONTRACT NO. 30002299
FOR
Clackamas County

Pursuant to Ordinance No. 185456

The **Intergovernmental Agreement ("IGA")** was made and entered into by and between Clackamas County, hereinafter called "Recipient", and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City.

RECITALS:

1. The Urban Areas Security Initiative (UASI) FY 2011 grant has been awarded from the US Department of Homeland Security (Grantor) through the State (Grantee) for administration by the City of Portland (Subgrantee).
2. The disposition of the grant funds to different governmental bodies, and the City, was achieved through intergovernmental agreements (IGAs) between the City and these entities. One such agreement was entered into between the City of Portland and Recipient.
3. The City further wishes to amend its IGA with the Recipient to extend the time of its operation.

NOW, THEREFORE, the parties agree:

1. To comply with all terms of the U. S Department of Homeland Security, Urban Area Security Initiative (UASI) Grant CFDA # 97.008, Grant No. 11-170 award including, but not limited to, obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds.
2. Section 3 is amended to read as follows:

Effective Date and Duration: This IGA shall be effective from the date all parties have signed and shall be terminated on 3/31/2014 unless otherwise extended by the parties in writing or this IGA is terminated due to failure of one of the Parties to perform.

All other terms and conditions shall remain unchanged and in full force and effect.

This contract amendment may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same contract amendment.

The parties agree the City and Contractor may conduct this transaction by electronic means, including the use of electronic signatures.

Clackamas County
By: Charlotte Lebari Date: 5-31-12

Charlotte Lebari FLI.
Name

Chair
Title

Naresh D. Dnyal Date: 6/14/12
Signature of Fiscal Representative of the Recipient Agency

Address: 2051 Kaen Rd Oregon City, OR 97045

Telephone: 503.650.3386

Contract No. 30002299

Amendment/Change Order No. 1

Contract Title: Clackamas County IGA

CITY OF PORTLAND SIGNATURES:

By: N/A
Chief Procurement Officer

Date: _____

By: 
Elected Official

Date: 6/29/2012

Approved:

By: J. Kipin-Valade by DB
Office of City Auditor

Date: 6/29/2012

Approved as to Form: **APPROVED AS TO FORM**

By: 
Office of City Attorney
CITY ATTORNEY

Date: 6/20/12

**OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT
URBAN AREA SECURITY INITIATIVE GRANT PROGRAM
CFDA # 97.008**

GRANT AWARD CONDITIONS AND CERTIFICATIONS

PROGRAM NAME:	FY 2011 UASI	GRANT NO:	# 11-170
SUBGRANTEE:	City of Portland	FEDERAL AWARD:	\$4,925,160
ADDRESS:	Portland Bureau of Emergency Management 1001 SW Fifth Ave, Ste 650 Portland, OR 97204	AWARD PERIOD:	3/1/12 thru 5/31/14
PROGRAM CONTACT:	Carmen Merlo carmen.merlo@portlandoregon.gov	TELEPHONE:	(503) 823-2691
FISCAL CONTACT:	Shelli Tompkins shelli.tompkins@portlandoregon.gov	TELEPHONE:	(503) 823-4187

BUDGET

Equipment	
CBRNE Prevention and Response Watercraft	\$320,000
CBRNE Logistical Support	\$315,000
CBRNE Operational/Search and Rescue	\$25,000
Explosive Device Mitigation	\$43,000
Information Technology	\$44,460
Interoperable Communications	\$256,207
Medical	\$90,000
Other Authorized Equipment	\$109,937
Personal Protective Equipment	\$122,000
Power	\$90,000
Terrorism Incident Prevention	\$1,000,000
Exercises	\$513,696
Planning	\$1,520,539
Training (ODP-approved)	\$229,063
Administration	\$246,258
Total	<u>\$4,925,160</u>

GRANT AWARD AGREEMENT AND PROVISIONS

I. Provisions of Award

- A. Agreement Parties. This Agreement is between the State of Oregon, acting by and through the Oregon Military Department, Office of Emergency Management (OEM) and the Subgrantee.
- B. Effective Date. This Agreement shall become effective on the date this Agreement has been fully executed by every party. Agreement termination shall not extinguish or prejudice OEM's right to enforce this Agreement with respect to any default by Subgrantee that has not been cured.
- C. Source of Funds. Payment for this Program will be from the Fiscal Year 2011 Urban Area Security Initiative Grant Program.
- D. Merger Clause: Waiver. This Agreement and referenced documents 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, modifications or change of terms of this Agreement shall be binding unless agreed to in writing and signed by both the Subgrantee and OEM. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given.
- E. Acknowledgment. The Subgrantee, by signature of its authorized representative, hereby acknowledges that he/she has read this Agreement, understands it, and agrees to be bound by its terms and conditions (including all references to other documents). Failure to comply with this Agreement and with applicable state and federal rules and guidelines may result in the withholding of reimbursement, the termination or suspension of the Agreement, denial of future grants, and/or damages to OEM.

TERMS AND CONDITIONS

II. Conditions of Award

- A. The Subgrantee agrees that all allocations and use of funds under this Agreement will be in accordance with the Homeland Security Grant Program guidance and application kit and to expend funds in accordance with the approved budget. OEM may withhold funds for any expenditure not within the approved budget or in excess of amounts approved by OEM. Failure of the Subgrantee to operate the program in accordance with the written agreed upon objectives contained in the grant application and budget will be grounds for immediate suspension and/or termination of this Agreement.
- B. To ensure consistency among statewide planning efforts, the Subgrantee agrees to coordinate grant funded planning projects with OEM, to include assistance with the creation of a scope of work, review and approval of service providers, and overall project direction.
- C. The Subgrantee agrees that funds utilized to establish or enhance state and local fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines and achievement of a baseline level of capability as defined by the Fusion Capability Planning Tool.
- D. The Subgrantee agrees that all publications created with funding under this grant shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."
- E. The Subgrantee agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this Agreement.
- F. By accepting FY 2011 funds, the Subgrantee certifies that it has met NIMS compliance activities outlined in the NIMS Implementation Matrix for State, Tribal, or Local Jurisdictions. Additional information on achieving compliance is available through the NIMS Resource Center at <http://www.fema.gov/emergency/nims/>.

G. Administrative Requirements, Retention and Access to Records, and Audits.

1. Administrative Requirements. The Subgrantee agrees to comply with all financial management and procurement requirements (Section H), including competitive bid processes and other procurement requirements, and to maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR) and the Office of Management and Budget (OMB) Circulars. A nonexclusive list of regulations commonly applicable to DHS grants includes:
 - a. Administrative Requirements. 44 CFR Part 13 (State and Local Governments).
 - b. Cost Principles. 2 CFR Part 225 (State, Local, and Tribal Governments) and 48 CFR Part 31.2 (Federal Acquisition Regulations - Contracts with Commercial Organizations).
 - c. Audit Requirements. OMB Circular A-133 (States, Local Governments, and Non-Profit Organizations).
2. Retention of Records. All financial records, supporting documentation, and all other records pertinent to this grant or agreements under this grant shall be retained by the Subgrantee for a minimum of six years following termination, completion or expiration of this Agreement for purposes of State of Oregon or Federal examination and audit. It is the responsibility of the Subgrantee to obtain a copy of 44 CFR Part 13 and all applicable OMB Circulars, and to apprise itself of all rules and regulations set forth.
3. Access to Records. OEM, Oregon Secretary of State, Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of the Subgrantee and any contractors or subcontractors of the Subgrantee, which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. The right of access is not limited to the required retention period but shall last as long as the records are retained.
4. Audits. If the Subgrantee expends \$500,000 or more in Federal funds (from all sources) in its fiscal year, the Subgrantee shall have a single organization-wide audit conducted in accordance with the provisions of OMB Circular A-133. Copies of all audits must be submitted to OEM within 30 days of completion. If the Subgrantee expends less than \$500,000 in its fiscal year in Federal funds, the Subgrantee is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section II.G.3 herein.
5. Audit Costs. Audit costs for audits not required in accordance with OMB Circular A-133 are unallowable. If the Subgrantee did not expend \$500,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.

H. Procurement Standards.

1. The Subgrantee shall use their own procurement procedures provided that the procurement conforms to applicable Federal (44 CFR Part 13.36) and State law (ORS 279A, 279B, 279C) and standards.
2. The Subgrantee agrees to provide the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the federal Davis-Bacon Act (40 U.S.C. 3141 et seq.) that must be paid to workers in each trade or occupation that is used in performing all or part of this Agreement.
3. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to the Subgrantee. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
4. The Subgrantee shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or

draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OEM.

5. The Subgrantee agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

I. Property/Equipment Management and Records Control, and Retention of Records.

1. Property/Equipment Management and Records Control. The Subgrantee agrees to comply with all requirements set forth in 44 CFR Part 13.31-33 for the active tracking and monitoring of property/equipment. Procedures for managing property/equipment, whether acquired in whole or in part with grant funds, until disposition takes place, will, at a minimum, meet the following requirements:
 - a. All property/equipment purchased under this Agreement, whether by the Subgrantee or a subcontractor, will be recorded and maintained in the Subgrantee's property/equipment inventory system.
 - b. The Subgrantee shall maintain property/equipment records that include: a description of the property/equipment; the manufacturer's serial number, model number, or other identification number; the source of the property/equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; who holds title; the acquisition date; the cost of the property/equipment and the percentage of Federal participation in the cost; the location, use and condition of the property/equipment; and any ultimate disposition data including the date of disposal and sale price of the property/equipment.
 - c. A physical inventory of the property/equipment must be taken and the results reconciled with the property/equipment records, at least once every two years.
 - d. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property/equipment. Any loss, damage, or theft shall be investigated.
 - e. Adequate maintenance procedures must be developed to keep the property/equipment in good condition.
 - f. If the Subgrantee is authorized to sell the property/equipment, proper sales procedures must be established to ensure the highest possible return.
 - g. The Subgrantee agrees that, when practicable, any property/equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security".
 - h. The Subgrantee shall pass on property/equipment management requirements that meet or exceed the requirements outlined above for all subcontractors, consultants, and the subgrantees who receive pass-through funding from this Agreement.
2. Retention of Property/Equipment Records. Records for property/equipment shall be retained for a period of six years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. Title to all property/equipment and supplies purchased with funds made available under the Urban Area Security Initiative Grant Program shall vest in the Subgrantee agency that purchased the property/equipment, if it provides written certification to OEM that it will use the property/equipment for purposes consistent with the Urban Area Security Initiative Grant Program.

J. Funding.

1. Matching Funds. This Grant does not require matching funds.
2. Allowable Costs. The Subgrantee agrees that all allocations and use of funds under this Agreement will be in accordance with the Fiscal Year 2011 Homeland Security Grant Program guidance and application kit.
3. Supplanting. The Subgrantee certifies that federal funds will not be used to supplant state or local funds, but will be used to increase the amount of funds that, in the absence of federal aid, would be made available to the Subgrantee to fund programs consistent with Urban Area Security Initiative Grant Program guidelines.

K. Reports. Failure of the Subgrantee to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues may result in the suspension of grant payments and/or termination of this Agreement.

1. Performance Reports.

The Subgrantee agrees to submit performance reports on its progress in meeting each of its agreed upon goals and objectives. The narrative reports will address specific information regarding the activities carried out under the FY 2011 Urban Area Security Initiative Grant Program and how they address identified project specific goals and objectives.

Reports are due to OEM by the end of each calendar year quarter.

Any Performance Report that is outstanding for more than one month past the due date may cause the suspension and/or termination of the grant. The Subgrantee must receive prior written approval from OEM to extend a performance report requirement past its due date.

2. Financial Reimbursement Reports.

- a. In order to receive reimbursement, the Subgrantee agrees to submit a signed Request for Reimbursement (RFR) which includes supporting documentation for all grant expenditures. RFRs may be submitted monthly but no less frequently than quarterly during the term of this Agreement. At a minimum, RFRs must be submitted no later than one month following the end of each calendar year quarter, and a final RFR must be submitted no later than one month following the end of the grant period.
- b. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- c. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- d. Reimbursements will only be made for actual expenses incurred during the grant period. The Subgrantee agrees that no grant funds may be used for expenses incurred before March 1, 2012 or after May 31, 2014.
- e. The Subgrantee shall be accountable for and shall repay any overpayment, audit disallowances or any other breach of grant that results in a debt owed to the Federal Government. OEM shall apply interest, penalties, and administrative costs to a delinquent debt owed by a debtor pursuant to the Federal Claims Collection Standards and OMB Circular A-129.

3. Audit Reports. The Subgrantee shall provide OEM copies of all audit reports pertaining to this Agreement obtained by the Subgrantee, whether or not the audit is required by OMB Circular A-133.

L. Indemnification.

The Subgrantee shall, to the extent permitted by the Oregon Constitution and by the Oregon Tort Claims Act, defend, save, hold harmless, and indemnify the State of Oregon, OEM, and their officers, employees, agents, and members from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities of the Subgrantee, its officers, employees, subcontractors, or agents under this Agreement.

The Subgrantee shall require any of its contractors or subcontractors to defend, save, hold harmless and indemnify the State of Oregon, OEM, and their officers, employees, agents, and members, from all claims, suits or actions of whatsoever nature resulting from or arising out of the activities of subcontractor under or pursuant to this Agreement.

The Subgrantee shall, if liability insurance is required of any of its contractors or subcontractors, also require such contractors or subcontractors to provide that the State of Oregon, OEM, and their officers, employees and members are Additional Insureds, but only with respect to the contractor's or subcontractor's services performed under this Agreement.

- M. Time is of the Essence. The Subgrantee agrees that time is of the essence under this Agreement.
- N. Copyright. If this Agreement or any program funded by this Agreement results in a copyright, OEM and the U.S. Department of Homeland Security reserve a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and authorize others to use, for government purposes, the work or the copyright to any work developed under this Agreement and any rights of copyright to which the Subgrantee, or its contractor or subcontractor, purchases ownership with grant support
- O. Governing Law; Venue; 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 OEM (and/or any other agency or department of the State of Oregon) and the Subgrantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for the State of Oregon; provided, however, if the 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, from any claim or from the jurisdiction of any court. **The Subgrantee, by execution of this Agreement, hereby consents to the In Personam Jurisdiction of said courts, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.**
- P. Notices. Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same by registered or certified mail, postage prepaid to the Subgrantee or OEM at the address or number set forth on page 1 of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.
- Q. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of OEM, the Subgrantee, and their respective successors and assigns, except that the Subgrantee may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of OEM.
- R. Survival. All provisions of this Agreement set forth in the following sections shall survive termination of this Agreement: Section II.G (Administrative Requirements, Retention and Access to Records, and Audits); Section II.H (Procurement Standards); Section III (Property/Equipment Management and Records Control, and Retention of Records); Section II.K (Reports); and Section II.L (Indemnification).
- S. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- T. Relationship of Parties. The parties agree and acknowledge that their relationship is that of independent contracting parties and neither party hereto shall be deemed an agent, partner, joint venturer or related entity of the other by reason of this Agreement.

III. Subgrantee Compliance and Certifications

- A. Debarment, Suspension, Ineligibility and Voluntary Exclusion. The Subgrantee certifies by accepting funds under this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency. (This certification is required by regulations published May 26, 1988, implementing Executive Order 12549, Debarment and Suspension, 44 CFR Part 17.) The Subgrantee shall establish procedures to provide for effective use and/or dissemination of the Excluded Parties List (<http://www.epls.gov/>) to assure that their contractors are not in violation of the nonprocurement debarment and suspension common rule.
- B. Standard Assurances and Certifications Regarding Lobbying. The Subgrantee is required to comply with 44 CFR Part 18, New Restrictions on Lobbying (http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr18_07.html). The restrictions on lobbying are enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per expenditure. The Subgrantee understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.
- C. Compliance with Applicable Law. The Subgrantee agrees to comply with all applicable laws, regulations, program guidance, and guidelines of the State of Oregon, the Federal Government and OEM in the performance of this Agreement, including but not limited to:
1. Administrative Requirements set forth in 44 CFR Part 13.
 2. Cost Principles set forth in 2 CFR Part 225 and 48 CFR Part 31.2.
 3. Audit Requirements set forth in OMB Circular A-133.
 4. The provisions set forth in 44 CFR Part 7; Part 9; Part 10; and Federal laws or regulations applicable to Federal assistance programs.
 5. The Freedom of Information Act (FOIA), 5 U.S.C. §552 with consideration of State and local laws and regulations regarding the release of information and regulations governing Sensitive Security Information (49 CFR Part 1520).
- D. Non-discrimination and Civil Rights Compliance, Equal Employment Opportunity Program, and Services to Limited English Proficient (LEP) Persons.
1. Non-discrimination and Civil Rights Compliance. The Subgrantee, and all its contractors and subcontractors, certifies that no person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any activity funded under this Agreement on the basis of race, color, age, religion, national origin, disability, or gender. The Subgrantee, and all its contractors and subcontractors, assures compliance with all applicable nondiscrimination laws, including but not limited to:
 - a. Nondiscrimination Regulation 44 CFR Part 7;
 - b. Title II of the Americans with Disabilities Act (ADA) of 1990;In the event that a Federal or State court or administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, age, religion, national origin, disability or gender against the Subgrantee or any of its contractors or subcontractors, the Subgrantee or any of its contractors or subcontractors will forward a copy of the finding to OEM.
 2. Equal Employment Opportunity Program. The Subgrantee, and any of its contractors and subcontractors, certifies that an equal employment opportunity program will be in effect on or before the effective date of this Agreement. The Subgrantee must maintain a current copy on file.
 3. Services to Limited English Proficient (LEP) Persons. National origin discrimination includes discrimination on the basis of limited English proficiency. Recipients of federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important benefits, programs, information and services. For additional information, please see <http://www.lep.gov>.

E. Environmental and Historic Preservation.

1. The Subgrantee shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable environmental and historic preservation laws including but not limited to:
 - a. National Environmental Policy Act (44 CFR Part 10)
 - b. National Historic Preservation Act,
 - c. Endangered Species Act, and
 - d. Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).

Failure of the Subgrantee to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding.

2. The Subgrantee shall not undertake any project without prior EHP approval by FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings, structures, and objects that are 50 years old or greater. The Subgrantee must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the Subgrantee must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the Subgrantee will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Any construction activities that have been initiated without the necessary EHP review and approval will result in a non-compliance finding and will not be eligible for FEMA funding.
3. For any of the Subgrantee's or its contractors' or subcontractors' existing programs or activities that will be funded by these grant funds, the Subgrantee, upon specific request from the U.S. Department of Homeland Security, agrees to cooperate with the U.S. Department of Homeland Security in any preparation by the U.S. Department of Homeland Security of a national or program environmental assessment of that funded program or activity.

F. Drug Free Workplace Requirements. The Subgrantee certifies that it will provide a drug-free workplace. There are two general requirements if you are a recipient other than an individual.

1. You must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. Briefly, those measures are to:
 - a. Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see 44 CFR Part 17.6); and
 - b. Take actions concerning employees who are convicted of violating drug statutes in the workplace.
2. You must identify all known workplaces under your Federal awards.

Additional information can be referenced at: http://www.access.gpo.gov/nara/cfr/waisidx_08/44cfrv1_08.html.

G. Classified National Security Information. No funding under this award shall be used to support a contract, subaward or other agreement for goods or services that will include access to classified national security information if the award recipient has not been approved for and has access to such information. Classified national security information as defined in Executive Order (EO) 12958, as amended, means information that has been determined pursuant to EO 12958 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

H. Human Trafficking. The Subgrantees, employees, contractors and subrecipients under this award and their respective employees may not:

1. Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
2. Procure a commercial sex act during the period of time the award is in effect; or
3. Use forced labor in the performance of the award or subawards under the award.

The Subgrantee must inform OEM immediately of any information the Subgrantee receives from any source alleging a violation of any of the above prohibitions in this award term. OEM's right to terminate unilaterally is in addition to all other remedies under this award. The Subgrantee must include these requirements in any subaward made to public or private entities.

IV. Suspension or Termination of Funding

OEM may suspend funding in whole or in part, terminate funding, or impose another sanction on a Urban Area Security Initiative Grant Program recipient for any of the following reasons:

- A. Failure to comply substantially with the requirements or statutory objectives of the Urban Area Security Initiative Grant Program guidelines issued thereunder, or other provisions of federal law.
- B. Failure to make satisfactory progress toward the goals and objectives set forth in the approved Project Justification(s).
- C. Failure to adhere to the requirements of the grant award and standard or special conditions.
- D. Proposing or implementing substantial plan changes to the extent that, if originally submitted, the application would not have been selected.
- E. Failing to comply substantially with any other applicable federal or state statute, regulation, or guideline. Before imposing sanctions, OEM will provide reasonable notice to the Subgrantee of its intent to impose sanctions and will attempt to resolve the problem informally.

V. Termination of Agreement


OEM may unilaterally terminate all or part of this Agreement or may reduce its scope of work if there is:

- A. A reduction in federal funds which are the basis for this Agreement.
- B. A material misrepresentation, error, or inaccuracy in Subgrantee's application.
- C. A change, modification or interpretation of State or Federal laws, regulations or guidelines that deprives OEM of authority to provide grant funds for the program or provide funds from the planned funding source.

VI. Subgrantee Representations and Warranties

The Subgrantee represents and warrants to OEM as follows:

- A. **Existence and Power.** The Subgrantee is a political subdivision of the State of Oregon. The Subgrantee has full power and authority to transact the business in which it is engaged and full power, authority, and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.
- B. **Authority, No Contravention.** The making and performance by the Subgrantee of this Agreement (a) have been duly authorized by all necessary action of the Subgrantee, (b) do not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative agency or any provision of the Subgrantee's articles of incorporation or bylaws 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 the Subgrantee is a party or by which the Subgrantee or any of its properties are bound or affected.
- C. **Binding Obligation.** This Agreement has been duly authorized, executed and delivered on behalf of the Subgrantee and constitutes the legal, valid, and binding obligation of the Subgrantee, enforceable in accordance with its terms.
- D. **Approvals.** 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 the Subgrantee of this Agreement.


John L. Lewis, Plans and Training Section Director
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062

11 APR 2012


Date


Signature of Authorized Subgrantee Official

3/30/2012

Date

SAM ADAMS / MAYOR
Name/Title


Signature of Authorized Fiscal Representative of Subgrantee Agency

4/4/12

Date

Shellie Tompkins, Sr. Management Analyst
Name/Title

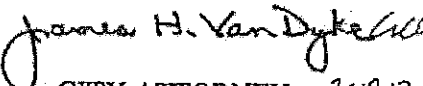
Reviewed for Legal Sufficiency:

Steven A. Wolf by email
Assistant Attorney General

APPROVED AS TO FORM

March 2, 2012

Date


CITY ATTORNEY 3-18-12

FY 2011 UASI Grant Budget

Item No.	Investment Name	Agency/Bureau	Category (Solution Area)	Subcategory	Item	Original Budget	Discipline
UA11-0003	Collaborative Regional Planning	Clack Co EM	planning	personnel	regional staff	\$ 111,111.00	EM
UA11-0010	Citizen Preparedness	Regional	equipment	Other - Citizen Corps Equipment	CERT, VIPS and MRC equipment	\$ 15,960.00	CC
UA11-0011	Citizen Preparedness	Regional	planning	education and outreach	banners and display board	\$ 3,000.00	CC
UA11-0012	Citizen Preparedness	Regional	training	training	Citizen Corps classes (MRC, VIPS, Fire Corps and CERT)	\$ 7,572.00	CC
UA11-0021	Citizen Preparedness	Clack Co EM	planning	education and outreach	Emergency preparedness calendars - printing and translation	\$ 30,000.00	CC
UA11-0022	Citizen Preparedness	Regional	training	training	Venue and equipment use Contractor for creation of workbook, and recruitment materials, Workbooks	\$ 40,000.00	CC
UA11-0023	Citizen Preparedness	Clack Co EM	training	training	NW Regional CERT Rodeo	\$ 12,000.00	CC
UA11-0026	Interoperable Communications & Information Sharing	Clack Co EM	equipment	information technology	WebEOC software upgrades, maintenance and tech support	\$ 14,296.00	EM
UA11-0042	Regional Incident Response & Recovery	Lake Oswego PW	equipment	power equipment	generator	\$ 90,000.00	PW



9

NANCY S. BUSH
DIRECTOR

DEPARTMENT OF EMERGENCY MANAGEMENT

April 24, 2014

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

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #1 of the Subrecipient Grant Agreement #14-007
between Clackamas River Water (UA12-0035) and Clackamas County

Purpose/Outcomes	Approving the Amendment #1 of the Subrecipient Grant Agreement #14-007 between Clackamas River Water (CRW) (UA12-0035) and Clackamas County allows CRW to receive and/or benefit from UASI grant funds that are in addition to their original FY12 Urban Area Security Initiative (UASI) award.
Dollar Amount and Fiscal Impact	The UASI grant is a 100% federal share grant. Clackamas County acts as the pass-through for grant funds to sub-recipients, receiving full reimbursement for any expenses incurred. Upon approval of Amendment #1 of the Subrecipient Grant Agreement, CRW will be eligible to receive \$18,809 toward an overland pipe system.
Funding Source	The United States Department of Homeland Security, Federal Emergency Management Agency - no County General Funds are involved.
Safety Impact	CRW will enhance their disaster response capability with funds from this grant.
Duration	The FY12 UASI grant award period is effective from the date of signature by both parties through May 31, 2014.
Previous Board Action	The FY12 UASI Intergovernmental Agreement, which serves as the basis for this agreement, was approved by the Board of County Commissioners during the August 29, 2013 business meeting – agenda item 082913-E2.
Contact Person	Sarah Stegmuller Eckman, Administrative Services Manager, 503-650-3381
Contract No.	N/A

BACKGROUND:

Clackamas County is a signatory to the FY12 UASI Intergovernmental Agreement with the City of Portland that requires the County to be the sponsoring, or pass-through, agency for other county agencies and special districts that receive funding or benefit from UASI grants. Approval of Amendment #1 of the Subrecipient Grant Agreement with CRW will allow the water district to receive \$18,809 toward an overland pipe system.

The agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends the Board approve Amendment #1 of the Subrecipient Grant Agreement between CRW and Clackamas County.

Respectfully submitted,

Nancy Bush, Director

**AMENDMENT #1 OF THE SUBRECIPIENT AGREEMENT# 14-007 BETWEEN
CLACKAMAS RIVER WATER (UA12-0035) AND CLACKAMAS COUNTY**

1. On September 18, 2013 Clackamas River Water and Clackamas County, acting by and through its Emergency Management Department entered into Sub-Recipient Agreement #14-007 (Agreement). According to the terms of the Agreement, the County agreed to fund, and Clackamas River Water agree to perform, according to the terms of the original Agreement and its Exhibits.
2. The County and Clackamas River Water mutually agree to amend this Agreement. The terms of the Agreement, set out at Section 4, permit its extension by means of a written instrument signed by both parties.
3. Except in this amendment, all terms and conditions of the original Agreement shall remain in full force and effect.
4. The terms and conditions of the Agreement shall be amended as follows:

Section #3 of the Agreement shall be amended to read:

Prior to this Amendment, the Agreement awarded \$88,000 of funding source CFDA #97.008 to the Subrecipient. As a result of this Amendment,

- the Agreement increases the funding by \$18,809, resulting in a total award of \$106,809.
 - This is additional UASI FY12 reprogramming award received which will cover the cost overrun on the UA12-0035 Overland Pipe System project.
5. The parties agree that this Amendment shall qualify as an amendment of the Agreement, done in the manner required by the Agreement at Section #4.

Done as of the last date appearing below.

Authorized Signature
Clackamas County

Print authorized signer name

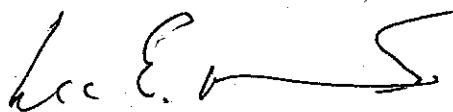
Print authorized signer title

Date

Approved as to form:



Scott Ciecko, Assistant County Counsel



Authorized Signature
Clackamas River Water

LEE E. MOORE SA

Print authorized signer name

GENERAL MANAGER

Print authorized signer title

3/31/14

Date

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 14-007**

Project Name: *UA12-0035 Clackamas River Water District Overland Pipe System*

Project Number: ~~*To Be Assigned by Clackamas County*~~ *1101D*

This Agreement is between Clackamas County, Oregon, acting by and through its
Department of Emergency Management and **Clackamas River Water District** (Subrecipient).

Clackamas County Data

Grant Accountant: *Judy Anderson-Smith*

Program Manager: *Sarah Stegmuller-Eckman*

Clackamas County – Finance
2051 Kaen Road
Oregon City, OR 97045
503-742-5422
jsmith2@co.clackamas.or.us

Clackamas County – Emergency Management
2200 Kaen Road
Oregon City, OR 97045
503-650-3381
sarahste@co.clackamas.or.us

Subrecipient Data

Finance/Fiscal Representative: *Carol Bryck*

Program Representative: *Donn Bunyard*

Name Clackamas River Water
Address 16770 SE 82nd Drive
City, State Zip Clackamas OR 97015
Phone (503) 722-9224
Email cbryck@crwater.com
DUNS: 02-899-9878

Name Clackamas River Water
Address 16770 SE 82nd Drive
City, State Zip Clackamas OR 97015
Phone (503) 722-9243
Email dbunyard@crwater.com

URBAN AREA SECURITY INITIATIVE (UASI)

THIS IS an intergovernmental agreement (Agreement) between Clackamas County, Oregon ("County") Clackamas River Water District ("Subrecipient") entered into pursuant to the authority granted in Oregon Revised Statutes (ORS) Chapter 190 for the coordination of activities related to use of the United States Department of Homeland Security's Urban Areas Security Initiative (UASI) grant program funds for addressing the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas to assist in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.

SECTION I. RECITALS

WHEREAS, the United States Department of Homeland Security, Federal Emergency Management Subrecipient (FEMA) Grant Programs Directorate, provided UASI grant funding in the amount of \$2,049,396, in Fiscal Year 2012 to the State of Oregon (State) for distribution to the Portland Urban Area (PUA); and

WHEREAS, the State awarded UASI Grant #12-170 (CFDA #97.008) to the City of Portland, Bureau of Emergency Management (PBEM), as sub grantee, for Fiscal Year 2012 in the amount of \$2,049,396, a copy of which is attached to this Agreement and incorporated herein as Exhibit A; and

WHEREAS, UASI Grant #12-170 is intended to increase the capabilities of the PUA, which includes jurisdictions, agencies, and organizations in Multnomah, Clackamas, Columbia, and Clackamas counties in Oregon and Clark County in Washington, to prevent, protect against, respond to, and recover from threats and acts of terrorism; and

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

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

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

WHEREAS, the City of Portland and all other PUA jurisdictions, agencies, and organizations that receive direct benefit from UASI grant purchases are required to comply with all terms of the UASI Grant # 12-170 award including, but not limited to, obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds; and

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

WHEREAS, This Grant Agreement of Federal 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 Subrecipient Grant Agreement the COUNTY and SUBRECIPIENT agree as follows:

1. **Effective Date and Duration.** This Agreement shall be effective from the date both parties have **signed** and shall be terminated on **May 31, 2014**, unless sooner terminated or extended pursuant to the terms hereof.
2. **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 UASI Grant #12-170, that is the source of the grant funding, in addition to compliance with requirements of Title 44 of the *Code of Federal Regulations*, Part 13. A copy of the grant award has been provided to SUBRECIPIENT by the COUNTY, which is attached to and made a part of this Agreement by this reference.
3. **Grant Funds.** The COUNTY's funding for this Agreement is the **Non-Profit Security Program (UASI) (CFDA 97.008)** issued to the COUNTY by the City of Portland, through its Bureau of Emergency Management. The maximum, not to exceed, grant amount that the COUNTY will pay is **\$88,000.00**. Disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Clackamas County Invoice Voucher Template and Exhibit E: Biannual Dashboard Report. Failure to comply with the terms of this Agreement may result in withholding of payment.
4. **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.
5. **Termination.** Either party may terminate this Agreement in the event the other fails to comply with its obligations under the Agreement. If the Agreement is terminated due to the Sub-recipient's failure or

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

6. **Funds Available and Authorized.** The COUNTY certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the current fiscal year budget. 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.
7. **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.
8. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a Subrecipient, and accepts among its duties and responsibilities the following:
 - a) That it has read the award conditions and certifications for UASI Grant #12-170, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as grantee, under those grant documents.
 - b) That the SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period also known at the period of availability.
 - c) To comply with all Clackamas County, City of Portland, and State and Federal financial management and procurement requirements, including competitive bid processes, and to maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR) and Office of Management and Budget (OMB) circulars. A nonexclusive list of regulations commonly applicable to DHS grants includes:
 - i. Administrative Requirements: 44 CFR Part 13 (State and Local Governments) and 2 CFR Part 215 (Non-Profit Organizations).
 - ii. Cost Principles: 2 CFR Part 225 (State, Local, and Tribal Governments); Part 230 (Non-Profit Organizations); and Federal Acquisition Regulations (FAR) Part 31.2 (Contracts with Commercial Organizations). These principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of the SUBRECIPIENT.
 - iii. Audit Requirements: OMB Circular A-133. The SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations". SUBRECIPIENT expenditures of \$500,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform an A-133 audit and submit the audit reports to the COUNTY within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.

- d) That all equipment, supplies, and services purchased by the City of Portland or Clackamas County on behalf of the Sub-recipient, or purchased by the Sub-recipient and reimbursed by the County are as described in the approved grant budget documents, which the Sub-recipient has seen.
- e) That it will not deviate from the items listed in the approved grant budget documents without first securing written authority from the Clackamas County. See budget document attached in Exhibit B.
- f) The SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number (DUNS) as required for receipt of funding. In addition, the SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- g) The SUBRECIPIENT shall comply with 2 CFR 180 and 901. This common rule restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>
- h) The SUBRECIPIENT agrees that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law which prohibits the use of Federal grant funds for litigation against the United States. See Exhibit C: Lobby and Litigation Certificate.
- i) The SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial records for the purpose of monitoring. The COUNTY, the City of Portland, the Federal or State government, and their duly authorized representatives shall have access to such financial 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 and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
- j) To comply with all property and equipment tracking and monitoring processes required by the grants, this Agreement, the City of Portland, Clackamas County and the State and Federal government.
- k) To treat all single items of equipment valued over \$5,000 as fixed assets and to provide Clackamas County with a list of such equipment. The list should include, but is not limited to, dates of purchase, equipment description, serial numbers, and locations where the equipment is housed or stored. All requirements for the tracking and monitoring of fixed assets are set forth in 44 CFR Part 13.32.
- l) To maintain and store all equipment and supplies, provided or purchased, in a manner that will best prolong its life and keep it in good working order at all times.
- m) That regardless of how it is procured, all equipment and supplies purchased shall be recorded as an asset of the Sub-recipient. The Sub-recipient shall be responsible for inventory tracking, maintenance, and storage while in possession of such equipment and supplies. Sub-recipient shall obtain from Clackamas County approval to dispose of all equipment and supplies, as title remains vested in the Federal Government in accordance with 44 CFR Part 13.32(f).

- n) That any request or invoice it submits for reimbursement of costs is consistent with the items identified in the approved grant budget documents.
- o) That it understands and accepts full financial responsibility and may not be reimbursed for costs incurred which have not been approved by the Clackamas County, City of Portland, State, and the U.S. Department of Homeland Security, FEMA Grant Programs Directorate.
- p) That all publications created with funding under this grant shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."
- q) That all financial records and supporting documentation, and all other records pertinent to this grant or agreements under this grant, shall be retained for a minimum of 10 years following termination, completion, or expiration of this Agreement for purposes of City of Portland, Clackamas County, State, or federal examination and audit.
- r) To obtain a copy of 44 CFR Part 13 and all applicable OMB circulars, and to apprise itself of all rules and regulations set forth.
- s) Not to supplant its local funds with federal and to, instead, use the federal funds to increase the amount of funds that, in the absence of federal aid, would be made available to fund programs within the UASI grant program guidelines.
- t) To comply with National Incident Management System (NIMS) objectives identified as requirements by the State.
- u) To comply with all applicable federal, state, and local environmental and historic preservation (EHP) requirements and provide information requested to ensure compliance with applicable laws.
- v) To provide timely compliance with all reporting obligations required by the grant's terms to Clackamas County.
- w) To provide Clackamas County with Performance Reports, Financial Reimbursement Reports, and Audit Reports as required by the City of Portland and Clackamas County and in the form required by the City of Portland and Clackamas County.
 - i. Performance Reports are due to the Portland Bureau of Emergency Management (PBEM) biannually on June 15th and December 15th during the term of the grant agreement. Late Performance Reports could result in the suspension and/or termination of the grant.
 - ii. Financial Reimbursement Reports are due to Clackamas County no less frequently than quarterly during the term of the grant agreement. Late Financial Reimbursement Reports could result in the suspension and/or termination of the grant.
 - iii. Per UASI Grant #12-170, Section K.2.b., reimbursement for expenses may be withheld if performance reports are not submitted by the specified dates or are incomplete.
 - iv. Single Audit Certification Form is to be completed and returned to Clackamas County within 30 days from receipt.

- x) To follow the travel expense and per diem guidelines set forth by the U.S. General Services Administration (GSA) as well as the guidelines of the City of Portland and State. Per UASI Grant #12-170, Section K.2.c., reimbursements rates for travel expenses shall not exceed those allowed by the State. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expense or authorized rates incurred.

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

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

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

- y) To comply with all of its obligations under this Agreement and any applicable, incorporated document or documents. 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 or to terminate this relationship including the original contract and all associated amendments.
9. **Governing Law.** 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 that arises from or relates to this Agreement shall be brought and conducted exclusively within the Circuit Court of Clackamas County for the state of Oregon. In the event a claim is brought in a federal forum, then it shall be brought and conducted solely and exclusively in the United States District Court for the District of Oregon, Portland Division.
10. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
11. **Survival.** The terms, conditions, representations, and all warranties in this Agreement shall survive the termination or expiration of this Agreement.
12. **Force Majeure.** Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond reasonable control. Each party shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement.
13. **Indemnification.** Sub-recipient shall indemnify, defend and hold harmless the County and the City of Portland, their officers, employees and agents from and against any and all liability, claims, damages, losses, and expenses, arising out of or relating to the performance of this Agreement, unless such liability, claims, damages, losses and expenses are due solely to the act of the County or the City of Portland.
14. **Insurance.** Sub-recipient shall obtain, at Sub-recipient's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form in the amount of not less than \$1 Million per occurrence/\$2 Million general aggregate for the protection of the County, its officers, commissioners, and

employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. Alternatively, Sub-recipient may provide the County with evidence of a sufficient self-insurance in lieu of purchasing commercial general liability insurance described herein.

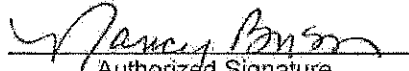
15. **Third Party Beneficiaries.** The County and the Sub-recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such persons are individually identified by name herein.
16. **Entire Agreement.** The parties agree and acknowledge that this Agreement is a complete, integrated agreement that supersedes any prior understandings related to implementation of the FY12 UASI program grant and that it is the entire agreement between them relative to that grant.
17. **Worker's Compensation.** Sub-recipient shall be responsible for providing worker's compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).
18. **Nondiscrimination.** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
19. **Access to Records.** Each party shall maintain, and shall have access to the books, documents, papers, and other records of the other party which are related to this Agreement for the purpose of making audit, examination, excerpts, and transcripts. Copies of applicable records shall be made available upon request. Access to records for Oregon Emergency Management (OEM), the Oregon Secretary of State, the Office of the Comptroller, the General Accounting Office (GAO), or any of their authorized representatives, shall not be limited to the required retention period but shall last as long as records are retained.
20. **Subcontracts and Assignment.** Neither party will subcontract or assign any part of this Agreement without the prior written consent of the other party. Notwithstanding County approval of a subcontractor, the Sub-recipient shall remain obligated for full performance hereunder, and the County shall incur no obligation other than its obligations to the Sub-recipient hereunder.

(Signature Page Attached)

Signature Page to SUBRECIPIENT GRANT Agreement

AGREED as of the Effective Date.

CLACKAMAS COUNTY, a political
subdivision of the State of Oregon

By: 
Authorized Signature


Date: 9/18, 2013

Approved as to form

By: 
County Counsel

Date: 9/10, 2013

SUB-RECIPIENT

By: 
Authorized Signature

For: Clackamas River Water
Sub-recipient

Date: September 4, 2013

Approved as to form

By: _____
Attorney

Date: _____, 2013

- Exhibit A: UASI GRANT AGREEMENT #12-170
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Lobbying and Litigation Certificate
- Exhibit D: Clackamas County Invoice Voucher Template
- Exhibit E: Biannual Dashboard Report

RECORDING MEMO

X	New Agreement/Contract
	Amendment/Change Order Original Number
	Policy, Reports,

ORIGINATING COUNTY
DEPARTMENT: Emergency Management

PURCHASING FOR: N/A

OTHER PARTY TO
CONTRACT/AGREEMENT: Clackamas River Water District

BOARD AGENDA DATE: September 12, 2013
AGENDA ITEM NUMBER: C-1.

PURPOSE: FY12 Urban Area Security Initiative (UASI) Subrecipient Grant Agreement between the Clackamas River Water District and Clackamas County

*If you want the item returned to you after recording indicate here.
Please return to Sarah Stegmuller Eckman x 3381 after recording.*

Clackamas County Official Records
Sherry Hall, County Clerk
Commissioners' Journals
Agreements & Contracts

2013-4375

09/26/2013 8:06:07 AM



10
DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

April 24, 2014

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Easement to Portland General Electric Company on Agency Owned Property Located at 10910 SE 82nd Avenue

Purpose/Outcomes	This easement will allow perpetual use over, under, upon and across a portion of Agency owned property. The total easement area is approximately 173 square feet and located where there is no other viable use. PGE will place a utility vault within the easement that will serve adjacent businesses.
Dollar Amount and Fiscal Impact	No fiscal impacts are expected.
Funding Source	No funds are required.
Safety Impact	No safety issues are created with the provision of this easement.
Duration	The easement will run with the land in perpetuity.
Previous Board Action	The Board of County Commissioners has not previously taken an action on this issue.
Contact Person	David Queener, Senior Project Planner, Clackamas County Development Agency 503-742-4322

BACKGROUND:

The Development Agency owns a small parcel located at 10910 SE 82nd Avenue, which is a remnant from the construction of Boyer Drive several years ago. The property is currently vacant.

Portland General Electric approached the Agency with a request that an easement be provided for the purpose of placing a utility vault on the far eastern edge of the property. The proposed location is very narrow and has no impact to potential redevelopment of the site. The utility vault will serve Winco Foods to the south and any future development on the Agency property.

Attached you will find a copy of the Easement for your review and approval.

This Agreement is in a format approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends the Board authorize the Chair to execute the Easement to Portland General Electric Company on Agency owned property located at 10910 SE 82nd Avenue.

Respectfully submitted,

Dan Johnson
Development Agency Manager

After recording return to:
Portland General Electric Company
Attn: Property Services
121 SW Salmon Street, 3WTCBR07
Portland, OR 97204

Grantor's Address:
150 Beaver Creek Road
Oregon City, OR 97045

UNDERGROUND DISTRIBUTION LINE EASEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Clackamas County Development Agency, a Municipal Corporation** ("Grantor") hereby conveys to **PORTLAND GENERAL ELECTRIC COMPANY** ("PGE"), an Oregon corporation, a perpetual easement over, under, upon and across the following described property (the "Property"), situated in Clackamas County, State of Oregon, being a tract of land, more particularly described as follows:

A tract of land situated in the Northwest quarter of Section 33, Township 1 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon;

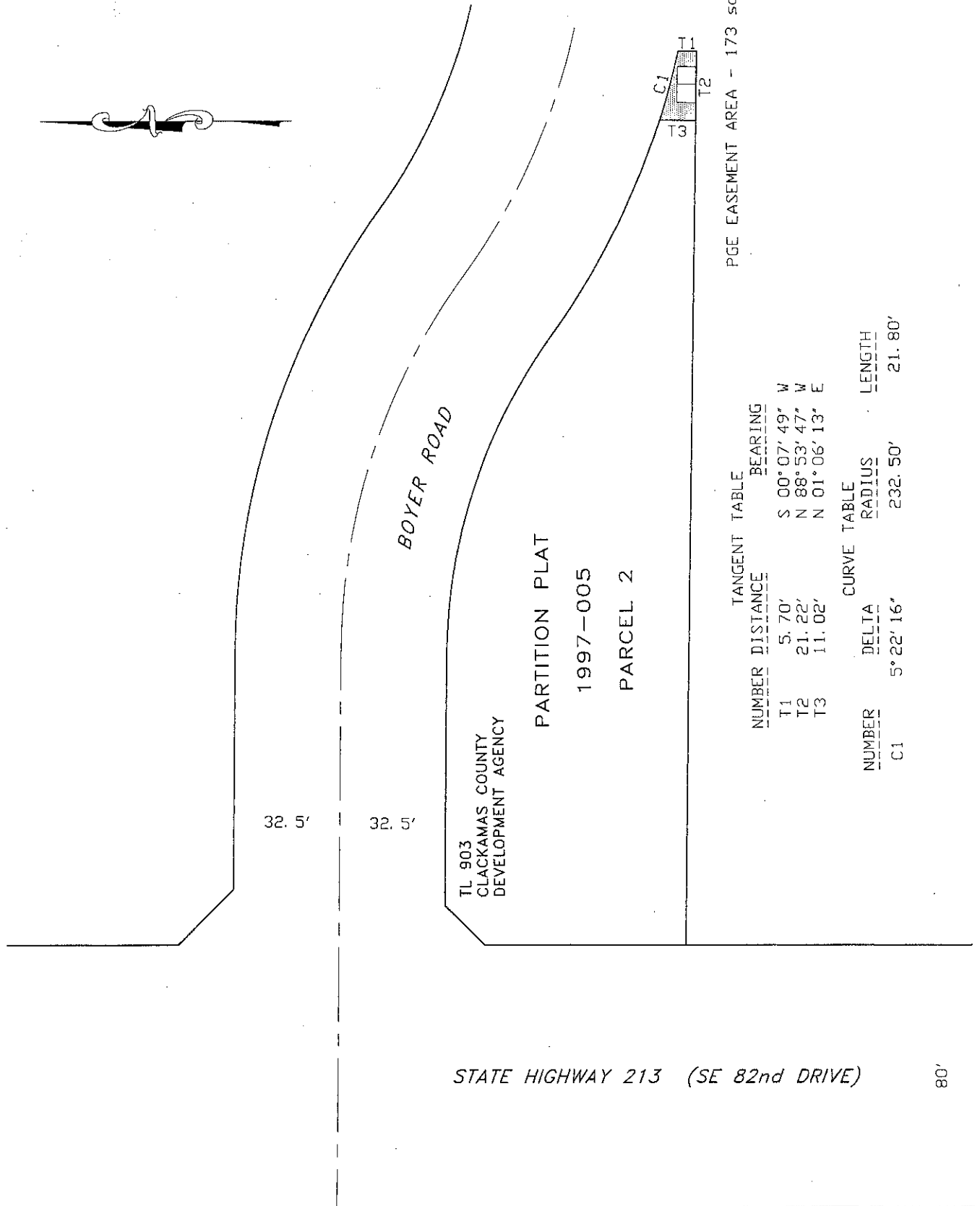
Beginning at the Northeast corner of Parcel 2, Partition Plat 1997-005; thence along the East boundary of said Parcel 2 South 00°07'49" West 5.70 feet; thence along the South boundary of said Parcel 2 North 88°53'47" West 21.22 feet; thence leaving said South boundary North 01°06'13" East 11.02 feet to the North boundary of said Parcel 2; thence in an Easterly direction along the arc of a 232.50 foot radius curve to the left on said North boundary, through a central angle of 5°22'16" a distance of 21.80 feet to the point of beginning.

Containing 173 square feet, more or less.

The above-described tract of land is shown on P.G.E. Drawing P-11026, attached hereto, which by reference thereto is made a part hereof.

TERMS, CONDITIONS, AND COVENANTS

1. PGE shall have the right to enter upon the Property and to install, maintain, repair, rebuild, operate and patrol underground electrical power lines and signal or communications lines, and all uses directly or indirectly necessary thereto, including but not limited to the right to install surface or subsurface mounted transformers, surface mounted connection boxes, meter cabinets and temporary overhead service lines.
2. The consideration acknowledged herein is accepted by the Grantor as full compensation for all damages incidental to this easement, including, but not limited to the value of all growing crops, brush, timber, or structures on the Property damaged or removed during any installation, repairs or rebuilding.
3. Grantor shall have the right to use the Property for all purposes not inconsistent with the uses and purposes of this easement, except Grantor shall not build or erect any structure or improvement upon, over or under the Property, except driveway, without the prior written consent of PGE, nor shall Grantor allow any encroachments which could interfere with or compromise PGE's ability to exercise its rights under this easement. In the event any such encroachment occurs, Grantor shall have no right to claim additional compensation based upon the removal or damage to the source of the encroachment.
4. Grantor warrants that it holds fee title to the Property and that PGE may peaceably enjoy the rights and benefits of this easement.
5. As used herein, the singular shall include the plural and vice versa.
6. This easement inures to the benefit of and binds the parties hereto, their heirs, devisees, administrators, executors, successors and assigns.
7. PGE, upon the initial installation, and upon each and every occasion that the same be repaired, replaced, renewed, added to, or removed, shall restore the Property of Grantor, and any improvements destroyed by the work, to as good condition as they were prior to any such installation or work, including the restoration of any topsoil and lawn.



PG&E EASEMENT AREA - 173 sq. ft. +/-

TANGENT TABLE	
NUMBER	DISTANCE
T1	5.70'
T2	21.22'
T3	11.02'

CURVE TABLE		
NUMBER	DELTA	LENGTH
C1	5°22'16"	21.80'