



# AGENDA

**Thursday, June 5, 2014 - 10:00 AM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2014-45

## **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. 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**

**IV. 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**

1. Approval of New Intra-Agency Agreement with Clackamas County Health Centers Division (CCHCD), for the School Based Health Centers (SBHC) Mental Health Expansion Project for Oregon City and Sandy High Schools – *Public Health*
2. Approval of a Renewal Revenue Intergovernmental Agreement with the City of Lake Oswego, for Medical Direction for the Fire Dept. & Communications Center – *Public Health*
3. Resolution No. \_\_\_\_\_ Approving an Inter-fund Loan Agreement from the General Fund to H3S to Support Health Center Operations – *Health Centers*
4. Approval of an Intergovernmental Agreement with the City of Estacada for the SW Laurel and SW Maple Street Improvements Project – *Housing & Community Development*

### **B. Department of Transportation & Development**

1. Approval of Intergovernmental Agreement No. 29903 with Oregon Department of Transportation for Right-of-Way Services for the SE 122<sup>nd</sup> and SE 132<sup>nd</sup> Avenue Sidewalk Connections Project

- 4 2. Approval of Amendment No. 1 to Intergovernmental Agreement No. 27884 with Oregon Department of Transportation for 2011 Emergency Relief Program Project Funding

**C. Department of Emergency Management**

- 7 1. Approval of FY 2011 Urban Area Security Initiative Local Grant Agreement with the City of Lake Oswego
- 8 2. Approval of FY 2013 Emergency Management Performance Grant Amendment No. 1 with the State of Oregon

**D. Elected Officials**

- 9 1. Approval of Previous Business Meeting Minutes – BCC

**E. Juvenile Department**

- 10 1. Approval of an Amendment to the Intergovernmental Agreement with Metro for Litter Removal by Juvenile Work Crews
- 11 2. Approval to Apply for the Edward Bryne Memorial Justice Assistance Grant for the Juvenile Department

**V. COUNTY ADMINISTRATOR UPDATE**

**VI. 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](http://www.clackamas.us/bcc/business.html)

June 5, 2014

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of new Intra-Agency Agreement with Clackamas County Health Centers Division (CCHCD), for the School Based Health Centers (SBHC) Mental Health Expansion Project for Oregon City and Sandy High Schools

<b>Purpose/Outcomes</b>	This Agreement provides the basis for a cooperative working relationship for the implementation of Mental Health Services at the Oregon City and Sandy SBHC's.
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value is \$224,000.
<b>Funding Source</b>	Public Health Admin Funds is receiving Grant funds from the State Public Health Authority – No County General Funds will be used.
<b>Safety Impact</b>	Provide better access to Mental Health students reducing the number of crisis situations.
<b>Duration</b>	Effective upon signature and terminates on June 30, 2015
<b>Previous Board Action</b>	No previous Board action has been taken.
<b>Contact Person</b>	Dana Lord, Public Health Director – 503-655-8479
<b>Contract No.</b>	6635

**BACKGROUND:**

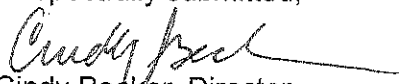
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Agreement with Clackamas County Health Centers Division (CCHCD) to implement mental health services at the Oregon City and Sandy SBHC's. This Agreement provides the basis for a cooperative working relationship for the provision of a mental health specialist at the SBHC's. This agreement will allow earlier access to mental health services, reducing the number of crisis incidents. This agreement is funded with grant money received through the Local Public Health Authority (LPHA).

This contract is effective upon signature and continues through June 30, 2015.

**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

INTRA-AGENCY AGREEMENT

BETWEEN

CLACKAMAS COUNTY HEALTH, HOUSING AND HUMAN SERVICES  
PUBLIC HEALTH DIVISION

AND

CLACKAMAS COUNTY HEALTH, HOUSING AND HUMAN SERVICES  
HEALTH CENTERS DIVISION

Contract #6635

I. Purpose

This agreement provides the basis for a cooperative working relationship between the Clackamas County Public Health Division herein referred to as "CCPHD," and the Clackamas County Health Centers Division, herein referred to as "CCHCD," with the common goal of implementing a Mental Health Expansion project to the School Based Health Center (SBHC) program. The funds provided under this agreement shall only be used to support activities related to the Mental Health Expansion Project within the SBHC.

II. Scope of Work and Cooperation

CCHCD agrees to:

- A. Provide a mental health specialist at Oregon City and Sandy SBHC.
- B. Bill for services provided by mental health specialists.
- C. Provide SBHC Coordinator with required data in a timely manner for submission to the State Program Office (SPO) June 15, 2014, December 15, 2014, and June 15, 2015 as described in Section V.B. Performance Reporting and Exhibit 1.
- D. Participate in monthly check-in meetings with SPO.

CCPHD agrees to:

- A. Work with Oregon City and Oregon Trail School Districts to promote the mental health specialist services.
- B. Submit required reports to SPO by June 15, 2014, December 15, 2014, and June 15, 2015.
- C. Serve as liaison to SPO.
- D. Participate in monthly check-in meetings with SPO.

III. Liaison Responsibility

- A. Facilitate communication and cooperation between the CCHCD and CCPHD and school districts to provide mentalhealth services in the SBHC'S.
- B. Complete the scope of work as outlined under Section II.

liaison from CCPHD is Jamie Zentner: JZentner@co.clackamas.or.us  
liaison from CCHCD is Janelle McLeod: JanelleM@co.clackamas.or.us

IV. Compensation

CCPHD's obligations under this agreement are subject to receipt of grant funds from the State of Oregon for Program Element #44: School Based Health Centers.

The maximum amount available for CCHCD under this agreement shall not exceed \$224,000.00.

V. Reporting Requirements

A. Fiscal Reports

- a. CCHCD shall submit monthly expenditure reimbursement invoices for true and verifiable costs and expenses related to implementation of the Mental Health Expansion Project. Invoices, must be itemized and reference contract # 6635.. Invoices shall be submitted to CCPHD by the 10th of the month following expenditures
- b. CCHCD will submit Fiscal Reports to:

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

B. Performance Reporting

- a. CCHCD must submit qualitative and quantitative data based on reporting requirements identified in EXHIBIT 1.
- b. CCHCD will submit Performance Reports to:

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

VI. Amendments

This agreement may be amended at any time with the concurrence of both parties. Amendments become a part of this agreement only after the written amendment has been signed by both parties and the Department Director.

VII. Term of Agreement

This agreement becomes effective **upon signature** and is scheduled to terminate June 30, 2015.

This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' written notice.

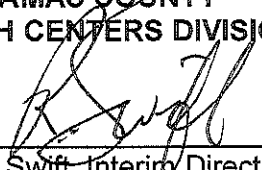
This agreement consists of seven (7) sections plus the following exhibit which by this reference is incorporated herein.

Exhibit 1      Semi-Annual Progress Report

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

**CLACKAMAS COUNTY  
HEALTH CENTERS DIVISION**

  
\_\_\_\_\_  
Richard Swift, Interim Director

5.20.14  
\_\_\_\_\_  
Date

**CLACKAMAS COUNTY  
PUBLIC HEALTH DIVISION**

  
\_\_\_\_\_  
Dana Lord, Director

5/19/14  
\_\_\_\_\_  
Date

**HEALTH, HOUSING AND HUMAN  
SERVICES DEPARTMENT**

\_\_\_\_\_  
Cindy Becker, Director

\_\_\_\_\_  
Date

## EXHIBIT 1

### Mental Health Expansion Grant

#### Semi-Annual Progress Report (Due June 15<sup>th</sup>, 2014)

*The purpose of this semi-annual progress report is to assist the State Program Office in assessing the progress of each grantee towards accomplishing the goals and objectives of the Mental Health Expansion Grant. The more details grantees include in this report, the greater our ability to accurately assess the progress made in the past 6 months. This report is to be used for both capacity grants and support projects.*

**Grantee county name:** Clackamas County Public Health Division

**Grantee implementing agency/organization:** Clackamas County Health Centers

**SBHCs included in the grant award:** 2

**Names and roles of individuals offering input on this report:** Jamie Zentner, SBHC Coordinator; Janelle McLeod, Clinic Manager; Tracy Garrell, Behavior Health Services Manager

**1. Summary of grant project activities. (maximum 2 pages)**

*Describe the major activities and events that occurred from January to June towards implementation of the project in the applicable categories below. To the extent possible, include quantifiable progress achieved (e.g. any staff hiring, trainings, or projects planned or conducted as a result of the grant).*

**a. Capacity Grant**

**2. Overview of major challenges or barriers that hindered program implementation and plans to overcome challenges. (maximum 1 page)** *Examples of barriers include existing infrastructure, staffing or recruitment, leadership, community partnerships, or unanticipated events. Please list the type of challenge, a short description, and what you plan to do or have done to overcome those challenges.*

**3. In order to be awarded this grant, agencies were able to demonstrate mental health needs within their communities. Now that you are 6 months into the project, please provide a narrative description on how the grant and project activities have impacted at least one of the following categories. If you have already witnessed stories of success, please include them. (maximum 3 pages)**

**a. Expanding mental health capacity.** *How has the grant enabled you to better meet the needs of the youth that you serve? This can include staff training or hiring of staff.*

**b. Technical infrastructure related to mental health.** *How has the grant impacted your ability to capture data, bill, provide better services, or increase efficiency?*

- c. **Building networks.** *Examples include training and partnering with non-SBHC personnel on mental health issues, work that supports the development of student peer networks, and work that impacts positive youth development.*
  - d. **Changing social norms related to mental health.** *Accessing mental health services can be stigmatized within many communities. How has the project impacted attitudes about mental health or accessing mental health services?*
- 4. **As many sites have spent the first 6 months of the grant getting started and may not have witnessed impact yet, please describe the work you plan to do in the next 6 months and how you anticipate the grant and project activities *will* impact at least one of the following categories (also listed above). Please also describe how you will know whether the impact has occurred. (maximum 2 page)**
  - a. **Expanding mental health capacity**
  - b. **Technical infrastructure**
  - c. **Building networks**
  - d. **Changing social norms related to mental health**
- 5. **Overview of lessons learned as a result of the first 6 months of the grant. (maximum ½ page in bullet point form)**
- 6. **Technical assistance needs. (maximum ½ page in bullet point form)**  
*Please describe any unmet technical assistance needs related to mental health and this grant.*



June 5, 2014

Board of County Commissioner  
 Clackamas County

Members of the Board:

Approval of a renewal revenue Intergovernmental Agreement with the City of Lake Oswego, for  
Medical Direction for the Fire Department and Communications Center

<b>Purpose/Outcomes</b>	This Agreement provides the basis for a cooperative working relationship for the provision of medical direction for the Lake Oswego Fire Department (LOFD) and Lake Oswego Communications Center (LOCOM).
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value is \$12,000.
<b>Funding Source</b>	Emergency Medical Services Coordination – No County General Funds will be used.
<b>Safety Impact</b>	Ensure proper licensure, knowledge and skill to perform services.
<b>Duration</b>	Effective July 01, 2014 and terminates on June 30, 2015
<b>Previous Board Action</b>	The Board of County Commissioners previously reviewed this agreement on June 26, 2013 – 062913-A10.
<b>Contact Person</b>	Dana Lord, Public Health Director – 503-655-8479
<b>Contract No.</b>	6754

**BACKGROUND:**

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Agreement with the City of Lake Oswego to provide Medical Direction for the Fire Department and Communications Center. This Agreement provides the basis for a cooperative working relationship for the provision of medical direction for the Lake Oswego Fire Department (LOFD) and Lake Oswego Communications Center (LOCOM) such as, developing a program to ensure LOFD meets the state requirements and to establish performance standards. This agreement will ensure that LOFD first responders meet requirements and protocols for the provision of EMS care.

This contract is effective July 1, 2014 and continues through June 30, 2015. This contract has been reviewed by County Counsel on June 18, 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

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
CLACKAMAS COUNTY  
AND  
THE CITY OF LAKE OSWEGO  
Contract # 6754**

**1. Purpose**

- A. This Agreement is entered into between the Clackamas County (County) and the City of Lake Oswego (City) for the cooperation of units of local government under the authority of ORS 190.010.
- B. This Agreement provides the basis for a cooperative working relationship for the provision of medical direction for the Lake Oswego Fire Department (LOFD) and Lake Oswego Communications Center (LOCOM).

**2. Scope of Cooperation**

A. County agrees to:

- 1. Assign a mutually agreed upon physician to provide Medical Director Services to LOFD and LOCOM.
- 2. Meet with LOFD personnel on a mutually agreed upon schedule to develop a program to:
  - a. Ensure that LOFD EMS providers meet Oregon State requirements for licensure and have the knowledge, skills and abilities to perform at the standards determined jointly by County and LOFD.
  - b. Evaluate each EMS Provider's skill performance annually.
  - c. Provide case reviews.
  - d. Oversee and direct training courses.
  - e. Oversee and direct a quality improvement program.
- 3. Provide medical direction and approval of Priority Dispatch Cards and case reviews for LOCOM dispatchers.
- 4. Oversee the maintenance, use, and documentation of all Automatic External Defibrillators (AEDs) provided for use by the City of Lake Oswego, in accordance with Federal and State regulations.
- 5. Provide contact information so that LOFD personnel can contact assigned Medical Director (or designee) in a timely manner.

B. City agrees to:

- 1. Meet with County personnel on a mutually agreed upon schedule to develop and maintain a program to:

CITY OF LAKE OSWEGO  
INTERGOVERNMENTAL AGREEMENT

- a. Ensure that LOFD EMS providers meet Oregon State requirements for licensure and have the knowledge, skills and abilities to perform at the standards determined jointly by County and LOFD.
  - b. Evaluate each EMS Provider's skill performance annually.
  - c. Provide case reviews.
  - d. Oversee and direct training courses.
  - e. Oversee and direct a quality improvement program.
2. Provide an EMS Coordinator to:
- a. Coordinate training exercises and skill monitoring.
  - b. Maintain a computerized CQI database of all procedures and relevant training for all EMS providers.
  - c. Coordinate case reviews and necessary training for LOCOM dispatchers.
  - d. Provide periodic reports to guide training efforts.
  - e. Organize the classes and locations, obtain instructors, and will notify Medical Director at least two (2) months in advance of the class as to Medical Director's role in said courses.
3. City further agrees to the following regarding the authority of the Medical Director:
- a. The City will not permit its EMS Providers to practice at a level other than that approved by Medical Director.
  - b. LOFD personnel will not practice under the medical direction or protocol of any physician other than the one assigned by mutual agreement with the exception of on-line medical control or direct in-person physician supervision provided during patient encounters.
  - c. As per ORS 682-245, Medical Director has the final decision with respect to the standing orders and written authorization to provide EMS care by LOFD Department personnel.
  - d. Medical Director may require specific remedial action to correct deficiencies noted in the continuous quality improvement process, or identified violations of federal, state and local laws or regulations.
  - e. County is not an employer of its EMTs, and acknowledges that no employment relationship exists between County and the EMTs employed by the City.

**3. Compensation**

- A. City will pay to County an amount not to exceed \$ 12,000.00 for services described in section 2A. Payments shall be requested and made as follows:

Payment of \$1,000.00 will be requested monthly by invoice from County.  
Payment will be made by City within 30 days of receipt of invoice.

- B. All checks shall be made payable to Clackamas County and mailed to the following address:

Clackamas County Finance  
Attn: Cheryl Bowen, Accounts Receivable  
2051 Kaen Road  
Oregon City, OR 97045

**4. Liaison Responsibility**

Liaison from City will be:

Ed Wilson, Chief, Lake Oswego Fire Department  
PO Box 369, Lake Oswego, OR 97034  
(503) 697-7410  
ewilson@ci.oswego.or.us

Liaison from County will be:

Larry MacDaniels  
2051 Kaen Road, Oregon City, OR 97045  
(503) 655-8256  
larrymac@co.clackamas.or.us

**5. Other Terms**

- A. Compliance with Laws. County and City agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- B. No Assignment. This agreement may not be subcontracted, assigned or transferred by either party without the express written consent of the other party.
- C. Entire Agreement; Amendment. This agreement constitutes the entire agreement between the parties, and may be modified only in writing signed by both parties. This agreement may be amended at any time with the written agreement of both parties.
- D. Indemnification and Hold Harmless. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and

the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.

- E. Notice of Litigation. Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.
- F. Insurance. Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274.

**6. Term of Agreement**

- A. The term of this agreement is a period beginning when it becomes effective and ending one year later. City may elect to renew this Agreement upon the same terms and conditions for additional one-year periods. Renewal shall occur upon written notice to County not sooner than 120 days nor later than 60 days prior to the completion date stated above, and the same date of each year thereafter for which the Agreement is renewed.

**7. Termination**

- A. This agreement may be terminated by either party upon 30 days written notice.
- B. This agreement may be terminated at any time for nonperformance of any material term of this agreement.
- C. This agreement may be terminated at any time by mutual agreement of the County and the City.

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// (Signature block on next page)

CITY OF LAKE OSWEGO  
INTERGOVERNMENTAL AGREEMENT

**CLACKAMAS COUNTY  
BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
John Ludlow, Chair

Attest: \_\_\_\_\_  
Mary Raethke, Recording Secretary

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

APPROVED AS TO FORM

*Kimberly A. Ybarra*  
County Counsel *5.27.14*

**CITY OF LAKE OSWEGO**

*Scott Lazenby*  
Scott Lazenby, City Manager

Date: *5/16/14*

APPROVED AS TO FORM

*Scott Lazenby*  
City Attorney

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COPY

June 5, 2014

Board of County Commissioner  
Clackamas County

Members of the Board:

Resolution # 2014 - \_\_\_\_\_ Approval of an Inter-fund Loan with Clackamas County Finance and Clackamas County Health Centers to support FY14 Health Centers Operations

<b>Purpose/Outcomes</b>	The Clackamas Health Centers Division (CHC) of the Health, Housing and Human Services Department (H3S) requests the Board approve an Inter-fund Loan Agreement to support continued CHC operations for FY2104
<b>Dollar Amount and Fiscal Impact</b>	\$2,500,000
<b>Funding Source</b>	County General Fund
<b>Safety Impact</b>	None
<b>Duration</b>	Effective May 1, 2014 – June 30, 2015
<b>Previous Board Action</b>	N/A
<b>Contact Person</b>	Richard Swift, Interim Director, 503-650-5694
<b>Contract No.</b>	

**BACKGROUND:**

In January of FY2014 H3S Administration identified a significant gap in CHC revenue and expenses for FY14, specifically in primary care. CHC Division leadership present at the time the FY2013-14 budget was created used unrealistic revenue assumptions to build that budget. In January new CHC leadership engaged in a range of actions to close the budget gap as follows:

- Shortened the billing cycle to increase realized revenue in this fiscal year;
- Worked with other H3S divisions to transfer funds and hold vacant positions;
- Eliminated all positions that were vacant since July, 2013;
- Eliminated and/or re-vamped the schedules of most temporary positions;
- Reduced the number of regular positions by 10%; and
- Cut material and service expenses.

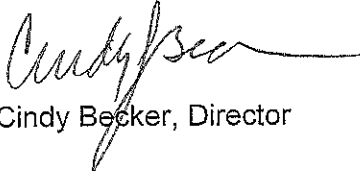
These actions reduced the budget gap to \$2.48 million. CHC leadership determined that further reductions of an additional 52 FTE would be needed to balance the budget. This would require clinic closures.

On February 4, 2014 H3S administration met with the Board of County Commissioners (BCC) in a study session to request a loan to allow CHC to balance its budget and avoid clinic closures. The BCC directed H3S and County Finance to develop a loan agreement and repayment schedule.

**RECOMMENDATION:**

H3S staff have worked with County Finance and County Counsel to develop the loan agreement and repayment schedule. These documents are attached to this staff report. Staff recommends the Board approve Resolution No. 2014 - \_\_\_\_ authorizing this Inter-fund Loan Agreement.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cindy Becker", with a long horizontal flourish extending to the right.

Cindy Becker, Director



**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

IN THE MATTER OF AUTHORIZING AN  
INTERFUND LOAN FROM THE  
GENERAL FUND TO H3S TO SUPPORT  
HEALTH CENTER OPERATIONS



**Resolution No. 2014-\_\_**

WHEREAS, the Department of Health, Housing and Human Services (“H3S”) has a funding shortfall in the current fiscal year relating to its health center operations; and

WHEREAS, the Board is willing to lend monies from the general fund in an amount up to \$2,500,000.00 (the “Loan”) to allow for an orderly transition to a new service level; and

WHEREAS, the Board has directed staff to document the terms and conditions of the Loan, which are reflected in the Interfund Loan Agreement attached hereto as Exhibit A; and

WHEREAS, no budget amendments are necessary to take this action and the Board may proceed under existing budget authority;

NOW, THEREFORE, IT IS HEREBY RESOLVED  
that the Director of H3S and the Director of County Finance are authorized to execute the attached Interfund Loan Agreement and take all action necessary to effectuate the same.

DATED this \_\_ day of June, 2014.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## INTERFUND LOAN AGREEMENT

This Interfund Loan Agreement (this "Agreement") is entered into as of the date set forth below between the Finance Director as manager of County funds ("Finance") and the Director of the Department of Health, Housing and Human Services ("H3S"). This Agreement documents the loan of funds for clinic operations of H3S from the County General Fund, managed by Finance, to H3S on the terms and conditions below. This loan was authorized by Board Resolution \_\_\_\_\_.

The Parties agree that:

1. Finance shall transfer into the accounts of or otherwise make available to Fund 253, Health Centers Fund, operated by H3S, Two Million Five Hundred Thousand and no/100 Dollars (\$2,500,000.00) sourced from the County General Fund (the "Loan") as of June 1, 2014 for the purpose of funding public health clinic operations .
2. Interest shall accrue on the outstanding balance of the Loan from June 1, 2014. The initial rate of interest shall be the rate of return on monies invested in the investment pool as reported under ORS 294.875 (the "Interest Rate").
3. The Loan shall be due and payable in full by June 30, 2015 (the "Due Date").
4. H3S shall make quarterly payments to the General Fund on the outstanding principal and interest of the Loan beginning on September 30, 2014, using straight line amortization assuming 13 payments with simple interest, and an unequal "balloon" final repayment on the Due Date. H3S shall budget repayment of this loan in FY2014-15. For clarity, a payment schedule is attached hereto as Exhibit A.
5. H3S has discussed with the Board the possibility of forgiveness of this debt. The Board will review the outstanding debt in FY2014-15 to determine whether it will (i) forgive the remaining payments and direct H3S to add the remaining balance to the Health Center's fund balance, (ii) require full repayment, or (iii) direct a new interfund loan be made on the remaining balance.

In Witness Hereof, this Agreement is entered into on this June \_\_, 2014.

COUNTY FINANCE

DEPARTMENT OF HEALTH, HOUSING AND HUMAN SERVICES

\_\_\_\_\_  
Marc Gonzales  
Director

\_\_\_\_\_  
Cindy Becker  
Director

Exhibit A

*Repayment Schedule*

September 30, 2014: \$192,307.00

December 31, 2014: \$192,307.00

March 31, 2015: \$192,307.00

June 30, 2015: \$1,923,079.00

June 5, 2014

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the City of Estacada for the SW Laurel and SW Maple Street Improvements Project

<b>Purpose/Outcomes</b>	This agreement will allow for the Housing & Community Development Divisions (HCD) to work with the City of Estacada and their hired engineer to construct new sidewalks, curbs, ADA ramps, and storm drainage along SW Laurel and SW Maple Streets.
<b>Dollar Amount and Fiscal Impact</b>	Community Development Block Grant (CDBG) funds in the amount of \$300,000. The City of Estacada will provide an estimated \$75,000 for the project. No County General Funds are involved.
<b>Funding Source</b>	Federal – Community Development Block grant funds and local project funds will be used.
<b>Safety Impact</b>	N/A
<b>Duration</b>	Effective August to November 2014
<b>Previous Board Action</b>	No previous board action has been approved for this construction project.
<b>Contact Person</b>	Steve Kelly – Community Development (503) 650-5665
<b>Contract No.</b>	6770

**BACKGROUND:**

The Housing and Community Development Division of the Health, Housing & Human Services Department request the approval an Intergovernmental Agreement with the City of Estacada for the SW Laurel and SW Maple Streets Improvements project. This agreement authorizes HCD to solicit for a general contractor for this project and determines the roles of Estacada and the County regarding contract administration, project management as well as the duties of the hired engineer during project construction. This agreement has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

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

Respectfully submitted,

  
 Cindy Becker, Director

# **INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**CLACKAMAS COUNTY DEPARTMENT OF  
HEALTH, HOUSING AND HUMAN RESOURCES  
COMMUNITY DEVELOPMENT DIVISION**

**AND**

**THE CITY OF ESTACADA**

## **I. Purpose**

- A. This Agreement is entered into between Clackamas County, acting by and through its Community Development Division (COUNTY) and the City of Estacada (CITY) for the cooperation of units of local government under the authority of ORS 190.010.
- B. This Agreement provides for the SW Laurel and SW Maple Street Improvements Project to construct new sidewalks, curbs, ADA ramps and storm drainage along SW Laurel Road and SW Maple Road. The Project is located in the City of Estacada. These improvements are herein referred to as the PROJECT.
- C. The COUNTY has determined that the PROJECT is eligible for Community Development Block Grant (CDBG) funds as a Low-Mod Area Benefit Activity because the entire City of Estacada is a Low-Mod Benefit Area. A project map with the specific Census Tract is included on Attachment A.

## **II. Scope of Responsibilities**

- A. Under this agreement the responsibilities of the CITY shall be as follows:
  - 1. The CITY shall provide all necessary supervisory and administrative support to assist the COUNTY with the completion of the PROJECT.
  - 2. The CITY shall obtain any easements or approvals necessary to allow access onto private property. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).
  - 3. The CITY and/ or their hired engineer shall provide engineering services to include; design and construction oversight, review and approval of payments, review of change orders, standard surveying, staking, as well as pre & post construction surveys for the PROJECT. Such services shall be provided at no cost to the COUNTY. However, section III. Budget &

Financial subsection D. provides for engineering credit. The CITY shall assume responsibility for ensuring the following:

- a. The CITY shall have a registered professional engineer (herein after referred to as Engineer) prepare all plans and specifications necessary to publicly bid the PROJECT for award to a construction contractor (herein after referred to as Contractor) and provide construction oversight including staking and surveying of the PROJECT. The CITY has the option to hire a private engineer or assign a CITY Engineer from within their office.
- b. The CITY shall require a private Engineer to maintain comprehensive general (including contractual liability) and automobile 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 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 Engineer's or any of Engineer's subcontractor's performance of this Agreement.
- c. The CITY shall require a private Engineer to maintain professional liability insurance in an amount of not less than \$1,000,000 per claim. Such insurance shall include limited contractual liability coverage and shall provide for thirty days prior written notice to the COUNTY in event of cancellation. The Engineer shall endeavor to use good faith in order to maintain in force such coverage for not less than three (3) years following completion of the PROJECT. The COUNTY, at its option, may require a complete copy of the above policy and evidence of required coverage.
- d. The CITY shall require a private Engineer to include the County as an additional insured and refer to and support the Engineer's obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide 30 days' written notice to the COUNTY in the event of cancellation, non-renewal, 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. The insurance company will provide written notice to the COUNTY within thirty (30) days after any reduction on the general annual aggregate limit.
- e. The CITY agrees to require a private Engineer to furnish the COUNTY evidence of the insurance required in II.A.3 (b) and (c).

- f. The CITY shall ensure that the Engineer's responsibilities include, but are not limited to, the following:
  - (i) During construction the Engineer shall endeavor to guard the COUNTY against apparent defects and deficiencies in the permanent work constructed by the Contractor.
  - (ii) All reports and recommendations concerning construction shall be submitted to the COUNTY for their approval. The COUNTY agrees that no decisions affecting construction shall be made without CITY approval.
  - (iii) In the event modifications to the construction contract resulting in an increase in the contract amount are made without the prior approval of the COUNTY, CITY shall be solely responsible for these modifications.
  - (iv) Notify the County Surveyor of the PROJECT and provide CITY, design engineer, surveyor and contractor contacts.
  - (v) File a "Pre-Construction Record of Survey" with the County Surveyor prior to the PROJECT final award of the construction contract in order to identify and preserve the locations of survey monuments that may be disturbed or removed during the construction as described in ORS 209.150.
  - (vi) File a "Post-Construction Record of Survey" with the County Surveyor after the construction PROJECT is completed. The Engineer is responsible to replace any property corner monuments that were disturbed or removed during construction as described in ORS 209.150.
- 4. The CITY shall operate and maintain the improvements for public purposes for their useful life subject to the limitations on the expenditure of funds by the CITY as provided by Oregon Statute.
- 5. The CITY shall complete and submit a Performance Measures Report following completion of the PROJECT. (Refer to Attachment A).
- 6. The CITY shall complete and submit a Matching Funds Report following completion of the PROJECT. (Refer to Attachment B).
- 7. Upon completion of the PROJECT the CITY:

- a. agrees to accept the improvements;
- b. agrees to become the successor of the Construction Contract, and;
- c. agrees to continue maintaining the improvements as described in Section I. Purpose. B.

B. Under this agreement the responsibilities of the COUNTY will be as follows:

1. The COUNTY will appropriately bid and contract for construction of the PROJECT and with the advice of the CITY, will approve changes, modifications, or amendments as necessary to serve the public interest.
2. In such contracts the COUNTY will assume the rights and responsibilities of the owner of the PROJECT.
3. The COUNTY agrees to provide and administer available Federal Community Development Block Grant (CDBG) funds (CFDA 14.218) granted by the U.S. Department of Housing and Urban Development (HUD) to finance the PROJECT.
4. The COUNTY shall conduct necessary environmental reviews described in 570.604 of the CDBG regulations for compliance with requirements of the CDBG program prior to the start of construction.
5. The COUNTY shall provide reasonable and necessary staff for administration of the PROJECT. A Project Coordinator from the County's Community Development Division will assist with the PROJECT management, coordination and contract administration.
6. The responsibilities of the Project Coordinator shall include:
  - a. Prepare a Bid Packet to be advertised in a local contractor's publication;
  - b. Conduct the Bid Opening on the date determined by all PARTIES;
  - c. Hire a General Contractor via the lowest responsible and responsive bidder;
  - d. Issue a Notice to Proceed after the Construction Contract is approved;
  - e. Conduct a Pre-Construction Conference with the General Contractor and the CITY, and the CITY's Engineer;
  - f. Coordinate with the Engineer, the CITY and General Contractor throughout General Contractor's performance of the Work;
  - g. Administration of federal and state prevailing wage requirements;
  - h. Closeout Paperwork and all federal reporting requirements;
  - i. With the Approval of the Engineer and both PARTIES;
    - (1) Make payment(s) to the General Contractor
    - (2) Release retainage funds to the General Contractor as appropriate;
  - j. Notify the CITY of their responsibilities for all warranty related issues after the Release of Retainage.

C. The COUNTY and CITY agree to jointly review and approve all design, material selection, and contract documents for the PROJECT.



### III. Budget & Financial

- A. The COUNTY will apply CDBG funds in the amount of **\$300,000** to the PROJECT. The obligations of the COUNTY are expressly subject to the COUNTY receiving funds from HUD for the PROJECT, and in no event shall the COUNTY'S financial contribution exceed the amount finally granted, released and approved by HUD for this project.
- B. The CITY agrees to contribute the greater of:
1. Twenty percent (20%) of the total cost of the PROJECT, or
  2. All costs for design and construction which exceed available CDBG funds budgeted for the PROJECT.
  3. Allowable match requirements for this PROJECT may be the use of CITY equipment, CITY workers labor, and/ or CITY reimbursable related to the construction PROJECT. Match credit(s) can be given to the CITY from the COUNTY; moreover, the CITY must submit all match credit(s) items as well as receive approval of the list of match credit(s) items. The COUNTY will not reimburse the CITY in the form of a check (\$). See below Part III. D.
- C. In the event the PROJECT can not be completed with available funds the COUNTY and CITY will jointly determine the priorities of the improvements to be made within funding limits.
- D. The CITY shall be credited towards the matching requirements stated in Part III. B. an amount equal to **15%** of the final construction cost for engineering services as detailed in Part II. A. 3. a.
- E. The CITY agrees to provide funds for the PROJECT to the COUNTY in the following manner:
1. In the event a construction contractor is entitled to payments for work completed after \$300,000 in CDBG funds have been expended, the COUNTY shall request a transfer of funds from the CITY for the amount necessary to make such payments. The CITY shall transfer funds which exceed available CDBG funds and are owed to a contractor to the COUNTY within thirty (30) consecutive calendar days of a written request.
  2. Upon receipt of written notification from the COUNTY the CITY shall provide payment within thirty (30) consecutive calendar days to the COUNTY the funds necessary to meet the matching contribution

requirement in Part III. B. All checks shall be made payable to Clackamas County, include a Project Number and be mailed to the following address:

Attn: Toni Hessevick  
Clackamas County - Finance Office  
Public Services Building  
2051 Kaen Road, Fourth Fl.  
Oregon City, OR 97045

3. In the event that unforeseeable conditions arise which necessitate the execution of a change in the amount of the construction contract, the CITY and the COUNTY will jointly evaluate the circumstances surrounding the conditions. Upon approval by the CITY and the COUNTY, the COUNTY shall instruct the Engineer to execute a change order.
4. Funds for the change order shall be split evenly between the COUNTY and the CITY subject to the limitations described above.

#### **IV. Liaison Responsibility**

Melanie Wagner, will act as liaison from the CITY for the PROJECT. Steve Kelly will act as liaison from the COUNTY.

#### **V. Special Requirements**

- A. **Law and Regulations.** The COUNTY and CITY agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- B. **Public Contracting Requirements.** To the extent applicable, the provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235 are incorporated by this reference as though fully set forth.
- C. **Relationship of Parties.** Each party is an independent contractor with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- D. **Indemnification.** Subject to the limits of the Oregon Tort Claims Act, and Oregon Constitution each of the parties agrees to hold harmless and indemnify the others, and their elected and appointed officials, agents, and employees, from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising on account of personal injuries, death or damage to property caused by or resulting from their own acts or omissions or those of their officials, agents and employees provided however, upon completion of the improvements, the CITY will assume all responsibility for claims made thereafter against the COUNTY or its officers, agents or employees

pertaining to the design and construction of the PROJECT, and will indemnify and defend them therefore.

- E. **Notice.** Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Agreement.
- F. **Record and Fiscal Control System.** All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- G. **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 CITY which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- H. **Debt Limitation.** This Agreement 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. Obligations of the COUNTY are also expressly subject to the COUNTY receiving funds from HUD for this project and in no event shall the COUNTY's financial contribution exceed the amount finally granted, released and approved by HUD for this project.
- I. **Conflict of Interest.** No officer, employee, or agent of the CITY or COUNTY who exercises any functions or responsibilities in connection with the planning and carrying out of the Block Grant Program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the Parties shall take appropriate steps to assure compliance. The Parties will insure that no contractor, subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services.
- J. **Insurance.** The CITY will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all affected CITY property. The CITY will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. If applicable, the CITY shall be required to maintain flood insurance. Each party agrees to maintain insurance, or self-insurance, in accordance with ORS 30.282, for the duration of

this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.

- K. **Nondiscrimination.** The CITY and the COUNTY agree to comply with all Federal, State, and local laws prohibiting discrimination of the basis of age, sex, marital status, race, creed, color, national origin, familial status, or the presence of any mental or physical handicap. These requirements are specified in ORS chapter 659; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.
- L. **Handicapped Accessibility.** The CITY agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.
- M. **Nonsubstituting for Local Funding.** The CDBG funding made available under this Agreement shall not be utilized by the CITY to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.
- N. **Evaluation.** The CITY agrees to participate with the COUNTY in any evaluation project or performance report, as designed by the COUNTY or the appropriate Federal department, and to make available all information required by any such evaluation process.
- O. **Audits and Inspections.** The CITY will ensure that the COUNTY, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property pertaining to the funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts.
- P. **Acquisition.** If completion of the project requires acquisition of any real property the parties agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.
- Q. **Change of Use.** The CITY agrees to comply with applicable change of use provisions contained in 24 CFR 570.505 (refer to Attachment C).
- R. **Reversion of Assets.** Upon expiration or termination of this Agreement, CITY shall transfer to COUNTY any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Also for any real

property under CITY'S control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to CITY in the form of a loan) in excess of \$25,000 or less based on the CDBG amount shall ensure said real property is either:

1. Used to meet one of the National Objectives in CFR 570.208 for the term of this Agreement; or
2. Not used to meet on the National Objectives for the term of this Agreement, in which event, the CITY shall pay to COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

## **VI. Amendment**

This Agreement may be amended at any time with the concurrence of both Parties. Amendments become a part of this Agreement only after the written amendment has been signed by both Parties.

## **VII. Term of Agreement**

- A. This Agreement becomes effective when it is signed by both Parties.
- B. The term of this Agreement is a period beginning when it becomes effective and ending ten (10) years after completion of the PROJECT.
- C. This Agreement may be suspended or terminated prior to the expiration of its term by:
  1. Written notice provided to the COUNTY from the CITY before any materials or services for improvements are procured, or;
  2. Written notice provided by the COUNTY in accordance with 24 CFR 85.43, included as Attachment D, resulting from material failure by the CITY to comply with any term of this Agreement, or;
  3. Mutual agreement by the COUNTY and CITY in accordance with 24 CFR 85.44.
- D. Upon completion of improvements or upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with the COUNTY.

**CITY OF ESTACADA**

PO Box 958  
Estacada, Oregon 97023



\_\_\_\_\_  
Bill Elliott, City Manager

Date 5/13/14

**CLACKAMAS COUNTY**

Chair John Ludlow  
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  
Department

\_\_\_\_\_  
Date



# ATTACHMENT A

## COMMUNITY DEVELOPMENT BLOCK GRANT PERFORMANCE MEASURES REPORT

FOR THE PERIOD: JULY 1, \_\_\_\_\_ TO JUNE 30, \_\_\_\_\_

### Project Name: SW Laurel and SW Maple Project - Estacada

The Service Area for this project is contained within Census Tract 242.00 Block Group 01. The City of Estacada portion of this Block Group is 56.5% Low- and Moderate-Income.

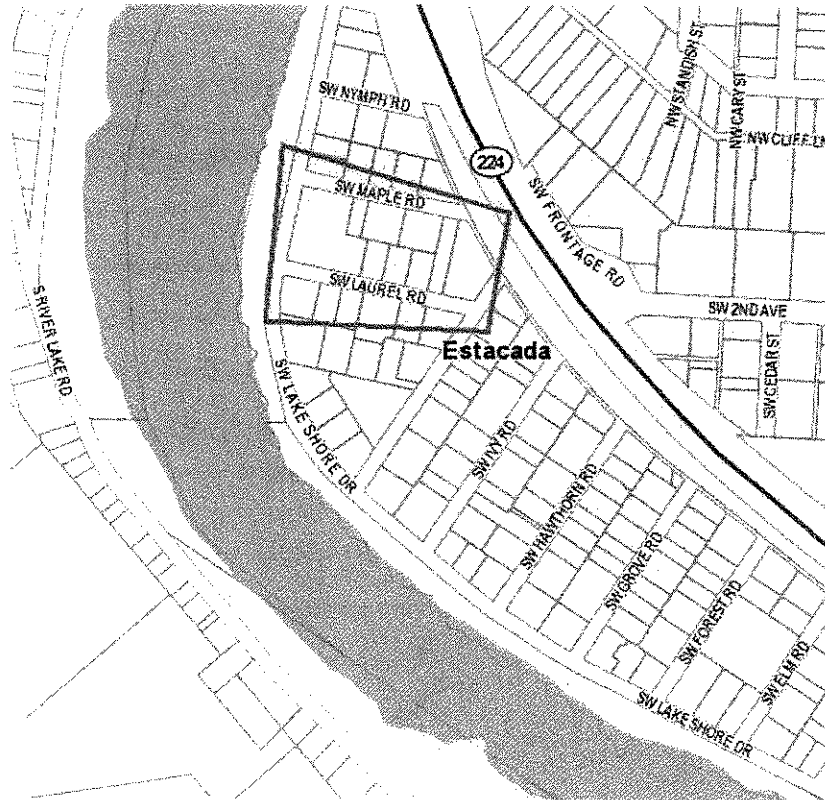
Choose all that apply:

# of persons 50 with new access to this Public Facility or Infrastructure Improvement

# of persons \_\_\_\_\_ with improved access to Public Facility or Infrastructure Improvement

# of persons \_\_\_\_\_ with access to this type of Public Facility or Infrastructure Improvement that is No Longer Substandard.

Total Number of persons assisted: 50 people in 36 households \_\_\_\_\_



Other benefits to the service area:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Organization

**ATTACHMENT B**

**CDBG Project Matching Funds**

**For reporting to HUD at the end of the year, indicate the specific sources and amounts of matching funds for the Estacada ADA Ramps Project:**

2014-15 CDBG Funds	\$ 300,000 max.
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<b>SOURCES OF LOCAL MATCH:</b>	
Other Federal (including pass-through funds, e.g. County CDBG, State FEMA, etc.)	
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____

State/Local Governmental Funding (e.g. State Housing Trust Funds, Local Assessment, etc.)	
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____

<b>Private (including recipient) Funding</b>	
Fund Raising/Cash	\$ _____
Loans	\$ _____
Building Value or Lease	\$ _____
Donated Goods	\$ _____
New Staff Salaries	\$ _____
Volunteers (\$5/hr)	\$ _____
Volunteer Medical/Legal	\$ _____
Other _____	\$ _____

Prepared By:  
(Print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## ATTACHMENT C

### Change of Use

#### Excerpt from 24 CFR Part 570

##### **570.505 Use of real property.**

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either;

(1) The new use of such property qualifies as meeting one of the national objectives in 570.208 (formerly 570.901) and is not a building for the general conduct of government; or

(2) The requirements and paragraph (b) of this section are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in 570.504(b) (4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.

## ATTACHMENT D

### Excerpt from 24 CFR Part 85

#### §85.43 Enforcement.

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,
- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
- (3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after

termination which are necessary and not reasonably avoidable are allowable if:

- (1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
  - (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- (d) *Relationship to Debarment and Suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see §85.35).

#### §85.44 Termination for convenience.

Except as provided in §85.43 awards may be terminated in whole or in part only as follows:

- (a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or
- (b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §85.43 or paragraph (a) of this section.



COPY  
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DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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

June 5, 2014

Board of Commissioners  
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement No. 29903  
with Oregon Department of Transportation for Right of Way Services for the  
SE 122<sup>nd</sup> and SE 132<sup>nd</sup> Avenue Sidewalk Connections Project**

<b>Purpose/Outcomes</b>	Defines the roles and responsibilities of the County and ODOT relating to acquiring right of way for the SE 122 <sup>nd</sup> and SE 132 <sup>nd</sup> Avenue Sidewalk Connections project.
<b>Dollar Amount and Fiscal Impact</b>	Total Project Phase Cost Estimate: \$130,000 Road Fund Match (10.27%): \$13,351
<b>Funding Source</b>	Transportation Enhancement (TE) Program County Road Fund
<b>Safety Impact</b>	Completion of this project will connect sidewalks along the west sides of SE 122 <sup>nd</sup> and SE 132 <sup>nd</sup> Avenues to Sunnyside Elementary and Clackamas High Schools and SE Hubbard and SE Sunnyside Roads.
<b>Duration</b>	Execution until completion of the project
<b>Previous Board Action</b>	04/12/12: BCC Approval of IGA 28216 for Transportation Enhancement Grant Funding for the subject project 04/12/12: BCC Approval of IGA 28217 for Right of Way Services for the subject project
<b>Contact Person</b>	Joel Howie, Project Manager 503-742-4658

**BACKGROUND:**

In May of 2011 Clackamas County was awarded a Transportation Enhancement (TE) grant for the Clackamas County Community and School Sidewalk Connection Project. This project, in coordination with the North Clackamas School District (NCSD), includes the design, engineering and construction of sidewalks along the west sides of SE 122<sup>nd</sup> and SE 132<sup>nd</sup> Avenues connecting two schools, and to SE Hubbard and SE Sunnyside Roads.

The attached proposed agreement is a customary step in the project delivery process for federally funded projects. This agreement is specifically for right of way services for the SE 122<sup>nd</sup> Avenue and 132<sup>nd</sup> Avenue Sidewalk Connections project. This agreement gives ODOT the authority to conduct all right of way negotiations and acquisitions on behalf of the County. The total cost of right of way acquisition for this project, and the total project cost, remain unchanged; ODOT staff will be performing the work instead of County staff due to increased work load. This agreement supersedes and replaces agreement 28217.

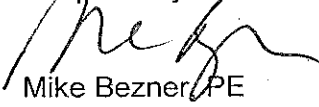
Y903

This IGA has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

Staff respectfully recommends that the Board of County Commissioners approve the attached Intergovernmental Agreement for Right of Way Services for the SE 122<sup>nd</sup> and SE 132<sup>nd</sup> Avenue Sidewalk Connections project.

Respectfully submitted,



Mike Bezner, PE  
Transportation Engineering Manager

For information on this issue or copies of attachments  
please contact Joel Howie at 503-742-4658

**INTERGOVERNMENTAL AGREEMENT  
FOR RIGHT OF WAY SERVICES**

SE 122nd Avenue and 132nd Avenue Sidewalk Connections

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and CLACKAMAS COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

**RECITALS**

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. That certain SE 122<sup>nd</sup> Avenue, SE 132<sup>nd</sup> Avenue, SE Sunnyside Road and SE Hubbard Road are County roads under the jurisdiction and control of Agency and Agency may enter into an agreement for the acquisition of real property.
4. N/A, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).
5. This Agreement shall define roles and responsibilities of the Parties regarding the real property to be used as part of right of way for road, street or construction of public improvement. The scope and funding may be further described in Local Agency Agreement number 28216. Hereinafter, all acts necessary to accomplish services in this Agreement shall be referred to as "Project."

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. Under such authority, to accomplish the objectives in Agreement No. 28216, State and Agency agree to perform certain right of way activities shown in Special Provisions - Exhibit A, attached hereto and by this reference made a part hereof. If the State performs right of way services on behalf of the Agency, under no conditions shall Agency's obligations for said services exceed a maximum of \$130,000.00, including all expenses, unless agreed upon by both Parties.

2. The work shall begin on the date all required signatures are obtained and shall be completed no later than ten (10) calendar years following the date all required signatures are obtained, on which date this Agreement automatically terminates unless extended by a fully executed amendment.
3. The process to be followed by the Parties in carrying out this Agreement is set out in Exhibit A.
4. This Agreement will supersede and replace Agreement No. 28217. Agreement No. 28217 will terminate upon execution of this Agreement.
5. It is further agreed both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual".

#### **STATE OBLIGATIONS**

1. State shall perform the work described in Special Provisions - Exhibit A.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. If the State performs right of way services on behalf of the Agency, State shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
4. State's right of way contact person for this Project is Shannon Fish, Region 1-Right of Way Project Manager, 123 NW Flanders Street, Portland, OR 97209, (503) 731-8433, shannon.fish@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact changes during the term of this Agreement.

#### **AGENCY OBLIGATIONS**

1. Agency shall perform the work described in Special Provisions - Exhibit A.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of current budget. Agency is willing and able to finance all, or its pro-rata share of all, costs and expenses incurred in the Project up to its maximum.
3. Agency may utilize its own staff or subcontract any of the work scheduled under this Agreement provided Agency receives prior written approval of any staff, consultant or contractor by the State's Region Right of Way office.

4. Agency represents that this Agreement is signed by personnel authorized to do so on behalf of Agency.
5. Agency's right of way contact person for this Project is Kath Rose, Right of Way, Clackamas County Dept. of Transportation & Development, 150 Beaver Creek Rd., DSB, Oregon City, OR 97045, kathros@co.clackamas.or.us, (503) 742-4713, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

**PAYMENT FOR SERVICES AND EXPENDITURES:**

1. In consideration for the services performed by State (as identified in the attached Exhibit A), Agency agrees to pay or reimburse State a maximum amount of \$130,000.00. Said maximum amount shall include reimbursement for all expenses, including travel expenses. Travel expenses shall be reimbursed to State in accordance with the current Oregon Department of Administrative Services' rates. Any expenditure beyond federal participation will be from, or reimbursed from, Agency funds. Payment in Agency and/or federal funds in any combination shall not exceed said maximum, unless agreed upon by both Parties.
2. Agency agrees to reimburse salaries and payroll reserves of State employees working on Project, direct costs, costs of rental equipment used, and per-diem expenditures.

**GENERAL PROVISIONS:**

1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person, under any of the following conditions:
  - a. If either Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.
  - c. If Agency fails to provide payment of its share of the cost of the Project.
  - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

3. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
4. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
5. All employers that employ subject workers who work under this Agreement 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. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its subcontractors complies with these requirements.
6. 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 State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
7. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), 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 Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency 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 State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law,



including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

8. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of 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 Agency on the one hand and of 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. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
9. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
10. If federal funds are involved in this Agreement, Exhibits B and C are attached hereto and by this reference made a part of this Agreement, and are hereby certified to by Agency.
11. If federal funds are involved in this Agreement, Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
12. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, 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.
13. This Agreement may be executed in several counterparts (facsimile or otherwise) 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 so executed shall constitute an original.

14. This Agreement and attached exhibits and Agreement No. 28216 constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**Signature Page to Follow**

**CLACKAMAS COUNTY**, by and through  
its elected officials

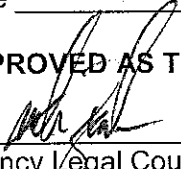
By \_\_\_\_\_  
Chair

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

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

Date 5/21/14 \_\_\_\_\_

**Agency Contact:**

Joel Howie, Civil Engineering Supervisor  
150 Beaver Creek Road  
Oregon City, OR 97045  
(503) 742-4658  
jhowie@co.clackamas.or.us

**State Contact:**

Shannon Fish, Region 1  
Right of Way, Program Manager  
123 NW Flanders Street  
Portland, OR 97209  
(503) 731-8433  
shannon.fish@odot.state.or.us

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

By \_\_\_\_\_  
State Right of Way Manager

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 1 Right of Way Manager

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By N/A  
Assistant Attorney General

Date \_\_\_\_\_

**APPROVED**

(If Litigation Work Related to Condemnation is  
to be done by State)

By N/A  
Chief Trial Counsel

Date \_\_\_\_\_

**SPECIAL PROVISIONS EXHIBIT A**  
**Right of Way Services**

THINGS TO BE DONE BY STATE OR AGENCY

1. Pursuant to this Agreement, the work performed on behalf of the Agency can be performed by the Agency, the Agency's consultant, the State or a State Flex Services consultant. The work may be performed by Agency staff or any of these representatives on behalf of Agency individually or collectively provided they are qualified to perform such functions and after receipt of approval from the State's Region 1 Right of Way Manager. Said approval must be obtained, in writing, prior to the performance of said activities.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. Both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual".

**Instructions:** Insert either: State, Agency, or N/A on each line.

**A. Preliminary Phase**

1. Agency shall provide preliminary cost estimates.
2. Agency shall make preliminary contacts with property owners.
3. Agency shall gather and provide data for environmental documents.
4. Agency shall develop access and approach road list.
5. Agency shall help provide field location and Project data.

**B. Acquisition Phase**

1. General:
  - a. When doing the Acquisition work, State shall provide Agency with a status report of the Project monthly.
  - b. Title to properties acquired shall be in the name of the Agency.
  - c. The Agency shall adopt a resolution of intention and determination of necessity in accord with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation. If the Oregon Department of Justice is to handle condemnation work, prior approval evidenced by Chief Trial Counsel, Department of Justice, signature on this Agreement is required; and authorization for such representation shall be

included in the resolution adopted by the Agency. Prior approval by Oregon Department of Justice is required.

2. Legal Descriptions:

- a. Agency shall provide sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
- b. Agency shall provide construction plans and cross-section information for the Project.
- c. Agency shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current "ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide" and the "Right of Way Engineering Manual." The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.
- d. Agency shall specify the degree of title to be acquired (e.g., fee, easement).

3. Real Property and Title Insurance:

- a. Agency shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.
- b. Agency shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current "State Right of Way Manual" and the "ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide." Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.
- c. Agency shall conduct a Level 1 Hazardous Materials Study within project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the project design as possible, but at a minimum prior to property acquisition or approved design.
- d. Agency shall conduct a Level 2 Site Investigation of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Corridor study indicates the potential presence of contamination that could impact the properties.
  - If contamination is found, a recommendation for remediation will be presented to Agency.
- e. Agency shall be responsible for arrangement of any necessary remediation.

- f. Agency shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.

4. Appraisal:

- a. State shall conduct the valuation process of properties to be acquired.
- b. State shall perform the Appraisal Reviews.
- c. State shall recommend Just Compensation, based upon a review of the valuation by qualified personnel.

5. Negotiations:

- a. State shall tender all monetary offers to land-owners in writing at the compensation shown in the appraisal review. Conveyances taken for more or less than the approved Just Compensation will require a statement justifying the settlement. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions. If State performs this function, it will provide the Agency with all pertinent letters, negotiation records and obligations incurred during the acquisition process.
- b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way shall occur prior to advertising of any construction contract, unless appropriate exceptions have been agreed to by Agency and State.
- c. State agrees to file all Recommendations for Condemnation at least seventy (70) days prior to the right of way certification date if negotiations have not been successful on those properties.

6. Relocation:

- a. Agency shall perform any relocation assistance, make replacement housing computations, and do all things necessary to relocate any displaced parties on the Project.
- b. Agency shall make all relocation and moving payments for the Project.
- c. Agency shall perform the relocation appeal process.

**C. Closing Phase**

- 1. Agency shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and

making all payments. State shall submit all signed Final Report packets, information required by the Uniform Act, and agreements to the Agency.

2. Agency shall record conveyance documents, only upon acceptance by appropriate agency.

#### **D. Property Management**

1. Agency shall take possession of all the acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the State highway right of way.
2. Agency shall dispose of all improvements and excess land.

#### **E. Condemnation**

1. Agency may offer mediation if the parties have reached an impasse.
2. Agency shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.
3. Agency shall perform all legal and litigation work related to the condemnation process. Agency is responsible for passage of a resolution substantially in the form attached hereto as Exhibit D, and by this reference made a part hereof, specifically identifying the property being acquired.
4. Where State shall perform legal or litigation work related to the condemnation process, Agency acknowledges, agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney nor any member of the law firm of Agency's attorney, board or council member, or mayor, will represent any party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project which is the subject of this Agreement.

#### **F. Transfer of Right of Way to State**

If applicable, Agency agrees to transfer to the State all right of way acquired on the State highway which was acquired in the Agency's name. The specific method of conveyance will be determined by the Agency and the State at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. Agency agrees to provide the State all information and file documentation the State deems necessary to integrate the right of way into the State's highway system. At a minimum, this includes: copies of all recorded conveyance documents used to vest title in the name of the Agency during the right of way acquisition process, and the Agency's Final Report or Summary Report for each acquisition file that reflects the terms of the acquisition and all agreements with the property owner(s).

#### **G. Transfer of Right of Way to Agency**

If applicable, State agrees to transfer and Agency agrees to accept all right of way acquired on the Agency's facility which was acquired in the State's name. The specific method of conveyance will be determined by the State and the Agency at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. If requested, State agrees to provide Agency information and file documentation associated with the transfer.



For purposes of Exhibits B and C, references to Department shall mean State, references to Contractor shall mean Agency, and references to Contract shall mean Agreement.

#### EXHIBIT B (Local Agency or State Agency)

##### CONTRACTOR CERTIFICATION

Contractor certifies by signing this Contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Contractor) to solicit or secure this Contract,
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Contractor), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the Contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

##### DEPARTMENT OFFICIAL CERTIFICATION

Department official likewise certifies by signing this Contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this Contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

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Exhibit C  
Federal Provisions  
Oregon Department of Transportation

##### CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this Contract that to the best of its knowledge and belief, it and its principals:

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
  - 2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for
- commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

**EXCEPTIONS:**

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this Contract, the Contractor is deemed to have signed this certification.

**II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS--PRIMARY COVERED TRANSACTIONS**

1. By signing this Contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Department determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.
4. The Contractor shall provide immediate written notice to the Department if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by entering into this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by entering into this Contract that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective

participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

### III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

#### **Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

##### Instructions for Certification

1. By signing and submitting this Contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in

addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this Contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may

decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment,  
Suspension, Ineligibility, and Voluntary  
Exclusion--Lower Tier Covered  
Transactions**

- a. The prospective lower tier participant certifies, by entering into this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

**IV. EMPLOYMENT**

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working

solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranting, Department shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of this Contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

**V. NONDISCRIMINATION**

During the performance of this Contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this Contract. Contractor, with regard to the work performed after award and prior to completion of the Contract work, shall not discriminate on grounds of race, creed,

color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.

2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this Contract, Contractor agrees as follows:
  - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
  - b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive

consideration for employment without regard to race, creed, color, sex or national origin.

4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
  5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the Contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
    - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
    - b. Cancellation, termination or suspension of the agreement in whole or in part.
  6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.
- VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

#### DBE POLICY STATEMENT

**DBE Policy.** It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this Contract.

**Required Statement For USDOT Financial Assistance Agreement.** If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

**DBE Obligations.** The Department and its Contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither Department nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Department deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Contract.

**Records and Reports.** Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials

from the DBEs identified to meet Contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the Contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

**DBE Definition.** Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

#### CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL   0   %

By signing this Contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Contract for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

#### VII. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any

Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

FOR INQUIRY CONCERNING  
DEPARTMENT'S DBE PROGRAM  
REQUIREMENT CONTACT OFFICE OF  
CIVIL RIGHTS AT (503)986-4354.

**RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN EXHIBIT D**  
**Right of Way Services**

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Agency's charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the (insert title of agency)'s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A," attached to this resolution and, by this reference incorporated herein; now, therefore

BE IT HEREBY RESOLVED by (Agency's Council, Commission, or Board)

1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;
2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;
3. The (insert title of agency)'s staff and the (Agency's Attorney, Counsel, or District's Counsel (or) (The Oregon Department of Transportation and the Attorney General) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the (Agency's Council, Commission, or Board).
4. (insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_





COPY

6

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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

June 5, 2014

Board of Commissioners  
Clackamas County

Members of the Board:

**Approval of Amendment No. 1 to Intergovernmental Agreement No. 27884 with Oregon Department of Transportation for 2011 Emergency Relief Program Project Funding**

<b>Purpose/Outcomes</b>	Amendment to an Intergovernmental Agreement with ODOT for the 2011 Emergency Relief Program Project funding
<b>Dollar Amount and Fiscal Impact</b>	Total Project Cost Estimate: \$2,529,000 Road Fund Match (10.27%): \$259,728.30
<b>Funding Source</b>	FHWA Emergency Relief Program Road Fund
<b>Safety Impact</b>	Completion of these projects restores the roadway sections to their condition prior to the storm events and in some cases remedies stormwater issues that contributed to the road damage.
<b>Duration</b>	Execution until completion of the project
<b>Previous Board Action</b>	08/25/11: BCC Approval of IGA 27884 for 2011 Emergency Relief Program Project Funding
<b>Contact Person</b>	Joel Howie, Project Manager 503-742-4658

**BACKGROUND:**

Following the January 2011 storm events, portions of Lolo Pass Road, East Barlow Trail Road and Zig Zag Bridge were compromised. These roads and the bridge are all part of the county road system and under the jurisdiction of Clackamas County. County staff requested federal funding through the Emergency Relief Program (ERP) and these projects will be financed with Federal Emergency Relief Program funds. The last cost estimate for these projects was \$2,529,000. The County Road Fund is responsible for approximately \$259,728 in match to complete these projects.

This amendment increases the estimated amount of the repair identified on East Barlow Trail Road from \$1,160,000 to \$1,469,000. This increase will cover additional design and construction required to fit the design into the constraints of the floodplain. The total for this particular project is increased by \$309,000 to a total of \$1,469,000 and the County's Road Fund match for the program funding is increased by approximately \$31,734.

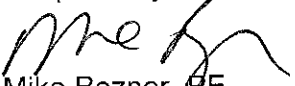
This agreement has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

Staff respectfully recommends approval of the attached amendment to Intergovernmental Agreement No. 27884 for additional 2011 Emergency Relief Program funding.

Y903

Respectfully submitted,



Mike Bezner, PE  
Transportation Engineering Manager

For information on this issue or copies of attachments  
please contact Joel Howie at 503-742-4658

**AMENDMENT NUMBER 01  
LOCAL AGENCY AGREEMENT  
EMERGENCY RELIEF PROGRAM  
Clackamas County ER Projects (2011)  
Zig Zag Bridge, Lolo Pass Road and East Barlow Trail Road**

The **STATE OF OREGON**, acting by and through its Department of Transportation, hereinafter referred to as "State;" and **CLACKAMAS COUNTY**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into an Agreement on September 11, 2011. Said Agreement covers Agency performing: 1) repairs to the approach embankments at the Zig Zag River Bridge at Lolo Pass Road, MP 0.2 and the damaged southern approach roadway, 2) replacements to washed away riprap revetment with Class 2000 riprap on East Barlow Trail Road at MP 6.0, and 3) removal of flood debris and reconstruction of Lolo Pass Road at MP 1.0.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to increase funding for Project Location East Barlow Trail Road at MP 6.0. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

**TERMS OF AGREEMENT, Paragraph 2, Page 1, which reads:**

2. The Project will be conducted as a part of the Emergency Relief Program (ERP) under Title 23, United States Code and the total Project cost is estimated at \$2,220,000, which is subject to change. The Project will be financed with ERP funds, which are estimated in the amount of \$2,220,000, and will not exceed that amount without approval of the Federal Highway Administration (FHWA). The Project will be financed with ERP funds at the maximum allowable federal participating amount, with Agency providing the match and any non-participating costs. No State funds will be used in this Project.

<b>Project Location</b>	<b>Estimated Amount</b>
Zig Zag River Bridge at Lolo Pass Road at MP 0.2 – Temporary Restoration	\$960,000
Lolo Pass Road at MP 1.0 – Temporary Restoration	\$100,000
East Barlow Trail Road at MP 6.0 – Permanent Restoration (Key No. 16638)	\$1,160,000
<b>ESTIMATED TOTAL</b>	<b>\$2,220,000</b>

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

2. The Project will be conducted as a part of the Emergency Relief Program (ERP) under Title 23, United States Code and the total Project cost is estimated at \$2,529,000,

State/Agency  
Agreement No. 27,884-1

which is subject to change. The Project will be financed with ERP funds, which are estimated in the amount of \$2,529,000, and will not exceed that amount without approval of the Federal Highway Administration (FHWA). The Project will be financed with ERP funds at the maximum allowable federal participating amount, with Agency providing the match and any non-participating costs. No State funds will be used in this Project.

Project Location	Estimated Amount
Zig Zag River Bridge at Lolo Pass Road at MP 0.2 – Temporary Restoration	\$960,000
Lolo Pass Road at MP 1.0 – Temporary Restoration	\$100,000
East Barlow Trail Road at MP 6.0 – Permanent Restoration (Key No. 16638)	\$1,469,000
<b>ESTIMATED TOTAL</b>	<b>\$2,529,000</b>

This Amendment may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2012-2015 Statewide Transportation Improvement Program, (Key #16638) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

**Signature Page to Follow**

State/Agency  
Agreement No. 27,884-1

**CLACKAMAS COUNTY**, by and  
through its elected officials

By \_\_\_\_\_  
Chair

Date \_\_\_\_\_

By \_\_\_\_\_  
Recording Secretary

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

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

Date 5/21/14

**Agency Contact:**

Joel Howie  
Civil Engineering Supervisor  
150 Beaver Creek Road  
Oregon City, OR 97045  
503-742-4658  
JHowie@co.clackamas.or.us

**State Contact:**

Mahasti Hastings  
Local Agency Liaison  
123 NW Flanders Street  
Portland, OR 97209  
503-731-8595  
mahasti.v.hastings@odot.state.or.us

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

By \_\_\_\_\_  
Highway Division Administrator

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Technical Services Manager/Chief Engineer

Date \_\_\_\_\_

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

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney

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



NANCY S. BUSH  
DIRECTOR

**DEPARTMENT OF EMERGENCY MANAGEMENT**

June 5, 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 the City of Lake Oswego

<b>Purpose/Outcomes</b>	Approving the FY11 LGA between Clackamas County and the City of Lake Oswego allows the City of Lake Oswego to receive and/or benefit from UASI grant funds that pass through Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	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 the LGA allows the City of Lake Oswego to receive a \$90,000 generator for use in public works and emergency/disaster operations and \$72,668 toward a Computer Aided Dispatch (CAD) project for the Lake Oswego Police Department.
<b>Funding Source</b>	The United States Department of Homeland Security, Federal Emergency Management Agency - no County General Funds are involved.
<b>Safety Impact</b>	The City of Lake Oswego will be able to enhance their emergency/disaster response equipment capability with funds from this grant.
<b>Duration</b>	The FY11 UASI grant award period is from March 1, 2012 through July 31, 2014.
<b>Previous Board Action</b>	The FY11 UASI LGA between Clackamas County and the City of Lake Oswego was previously approved by the Board of County Commissioners on December 5, 2013, agenda item 120513 – D1. Per instruction from County Counsel, the agreement language has been revised and the revised agreement is being submitted for approval.
<b>Contact Person</b>	Sarah Stegmuller Eckman, Administrative Services Manager, 503-650-3381
<b>Contract No.</b>	N/A

**BACKGROUND:**

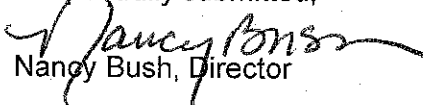
Clackamas County is a signatory to an Intergovernmental Agreement with the City of Portland that requires the County to be the sponsoring, or pass-through, agency for other county agencies and special districts that receive funding or benefit from UASI grants. Approval of the FY11 UASI LGA with the City of Lake Oswego will allow the City to receive a \$90,000 generator and provide \$72,668 toward a Computer Aided Dispatch project. Additionally, the City will be eligible to benefit from any future FY11 UASI funding opportunities. This agreement was previously approved by the Board in December 2013; however, content revisions have been made and approved by County Counsel resulting in the need for the agreement to be signed again. This agreement will supersede the previous agreement.

The agreement has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the FY11 UASI LGA between Clackamas County and the City of Lake Oswego.

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 City of Lake Oswego ("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 July 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: Guy Graham, Public Works Director  
Jurisdiction/District: City of Lake Oswego  
Address: P.O. Box 369, Lake Oswego, OR 97034  
Phone: 503-635-0290


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

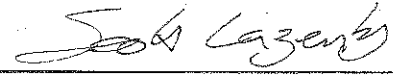
Approved as to form

By: 

County Counsel

Date: 4/29/, 2014

**SUB-RECIPIENT**

By: 


Authorized Signature Scott Lazenby,  
City Manager

For: City of Lake Oswego

Sub-recipient

Date: May 5, 2014

Approved as to form

By: 

Attorney

Date: 5/2/14, 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:

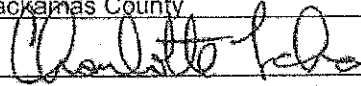
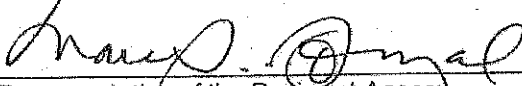
1. To comply with all terms of the U. S Department of Homeland Security, Urban Area Security Initiative (UASI) Grant CFDA # 97.008, Grant No. 11-170 award including, but not limited to, obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds.
2. 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:  Date: 5-31-12  
Charlotte Lehan FLI.  
Name  
Chair  
Title  
 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

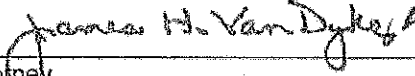
Date: 6/29/2012

Approved:

By: J. Krupin-Valade by DO  
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



AMENDMENT NO 2  
CONTRACT NO 30002299

FOR  
Clackamas County

Pursuant to Ordinance No. ~~185456~~ 194524

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

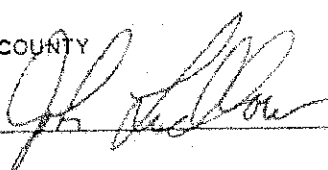

  
Carmen Merlo, Director PBEM

Date: 5-7-14

\_\_\_\_\_  
City Attorney

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

CLACKAMAS COUNTY

  
  
Office of City Attorney  
County Counsel

Date: 4-24-14

Date: 9 April 2014

**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	\$4,925,160

## 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 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](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 governing 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](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**

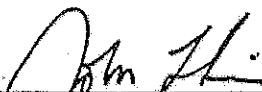
OEM may unilaterally terminate all or part of this Agreement or may reduce its scope of work if there is:

- 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

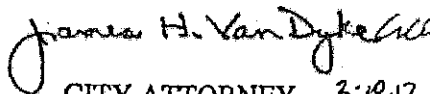
Reviewed for Legal Sufficiency:

Steven A. Wolf by email  
 Assistant Attorney General

APPROVED AS TO FORM

March 2, 2012

Date

  
 CITY ATTORNEY 3-18-12



NANCY S. BUSH  
DIRECTOR

DEPARTMENT OF EMERGENCY MANAGEMENT

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

June 5, 2014

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of FY2013 Emergency Management Performance Grant Amendment #1  
between Clackamas County and the State of Oregon

<b>Purpose/Outcomes</b>	The Emergency Management Performance Grant (EMPG) agreement #13-503 was executed in December 2013. It reimburses Clackamas County Emergency Management (CCEM) for up to 50% of pre-identified program costs. Amendment #1 to EMPG agreement #13-503 increases the existing federal award from \$208,119 to \$305,526. The amendment also increases the local match requirement from \$208,119 to \$305,526. CCEM can meet the new required match within the current budget.
<b>Dollar Amount and Fiscal Impact</b>	The grant agreement total value is \$611,052. The grant is a 50% federal share grant that will reimburse CCEM for up to fifty percent of salaries of six employees, departmental telephone costs and some allocated costs.
<b>Funding Source</b>	FY 2013 Emergency Management Performance Grant via the State of Oregon Military Department, Office of Emergency Management
<b>Safety Impact</b>	The grant dollars assist the program with funding to sustain day-to-day costs and resources that are necessary for declared disasters and emergency events.
<b>Duration</b>	Effective July 1, 2013 and terminates on June 30, 2014.
<b>Previous Board Action</b>	The Board approved the FY2013 EMPG Grant during the November 27, 2013 business meeting, agenda item F.2.
<b>Contact Person</b>	Nancy Bush, Director – Emergency Management Department, 503-655-8665
<b>Contract No.</b>	Grant number 13-503

**BACKGROUND:**


County emergency management programs are required by Oregon Revised Statutes 401. The EMPG is a recurring federal grant program providing limited reimbursement of a portion of the costs incurred in operating local emergency management programs. The funds provided are for the development of an all-hazard emergency management capability to promote preparedness, mitigation, response and recovery.

County Counsel has approved the amendment as to form.

**RECOMMENDATION:**

Staff respectfully recommends Board approval of the EMPG #13-503 Amendment #1.

Respectfully submitted,

  
Nancy Bush, Director

**OREGON MILITARY DEPARTMENT  
OFFICE OF EMERGENCY MANAGEMENT  
EMERGENCY MANAGEMENT PERFORMANCE GRANT  
CFDA # 97.042**

***AMENDMENT #1***

This is Amendment #1 to Grant Agreement #13-503 effective December 9, 2013, between the State of Oregon, acting by and through the Oregon Military Department, Office of Emergency Management (OEM), and Clackamas County.

**THE AGREEMENT IS AMENDED AS FOLLOWS (new language is indicated by bold and underline and deleted language is italicized and bracketed):**

Section 3: Section 3 is hereby amended as follows:

**Grant Funds; Matching Funds.** In accordance with the terms and conditions of this Agreement, OEM shall provide Subgrantee an amount not to exceed ~~[\$208,119]~~ **\$305,526** in Grant Funds for eligible costs described in Section 6 hereof. Grant Funds for this Program will be from the Fiscal Year 2013 Emergency Management Performance Grant (EMPG) Program. Subgrantee shall provide matching funds for all Project Costs as described in Exhibit A.

Exhibit A: The Budget is hereby amended as follows:  
Budget

**II. Budget**

**There is a 50% cash match requirement on this grant.**

<b><u>Grant Funds:</u></b>	<b><u>\$305,526</u></b>
<b><u>Match Funds:</u></b>	<b><u>\$305,526</u></b>
<b><u>Total Budget:</u></b>	<b><u>\$611,052</u></b>

Personnel	<del>[\$363,597]</del>	<b><u>\$545,000</u></b>
County Cost Allocations	<del>[\$52,641]</del>	<b><u>\$66,052</u></b>
<b>Total (Grant plus Match)</b>	<del>[\$416,238]</del>	<b><u>\$611,052</u></b>

This amendment may be executed by the parties in counterparts.

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

SIGNATURE PAGE TO FOLLOW

Approved by:

---

Sean McCormick, Mitigation and Recovery Services Section Manager, OEM

Date

---

Signature of Authorized Subgrantee Official

Date

**OREGON MILITARY DEPARTMENT  
OFFICE OF EMERGENCY MANAGEMENT  
EMERGENCY MANAGEMENT PERFORMANCE GRANT  
CFDA # 97.042  
CLACKAMAS COUNTY  
\$208,119  
Grant No: 13-503**

This Agreement is made and entered into by and between the State of Oregon, acting by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as "OEM," and Clackamas County, hereinafter referred to as "Subgrantee," and collectively referred to as the "Parties."

1. **Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law. Reimbursements will be made for Project Costs incurred beginning on July 1, 2013 and ending, unless otherwise terminated or extended, on June 30, 2014 (Expiration Date). No Grant Funds are available for any expenditures after the Expiration Date. OEM's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 6.b.iv of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:
  - Exhibit A: **Project Description and Budget**
  - Exhibit B: **Federal Requirements and Certifications**
  - Exhibit C: **Subcontractor Insurance**

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: Exhibit B; this Agreement without Exhibits; Exhibit A; Exhibit C.
3. **Grant Funds; Matching Funds.** In accordance with the terms and conditions of this Agreement, OEM shall provide Subgrantee an amount not to exceed \$208,119 in Grant Funds for eligible costs described in Section 6 hereof. Grant Funds for this Program will be from the Fiscal Year 2013 Emergency Management Performance Grant (EMPG) Program. Subgrantee shall provide matching funds for all Project Costs as described in Exhibit A.
4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by OEM by amendment pursuant to Section 11.d hereof.
5. **Reports.** Failure of 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, termination of this Agreement, or both.

**a. Performance Reports.**

- i. Subgrantee agrees to submit performance reports, using a form provided by OEM, 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 2013 Emergency Management Performance Grant Program and how they address identified work plan elements.
- ii. Reports are due to OEM on or before the 15th day of the month following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31).
- iii. Subgrantee may request from OEM prior written approval to extend a performance report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.

**b. Financial Reimbursement Reports.**

- i. To receive reimbursement, Subgrantee must submit a signed Request for Reimbursement (RFR), using a form provided by OEM, that includes supporting documentation for all grant and, if applicable, match 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 on or before 30 days following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31), and a final RFR must be submitted no later than one month following the end of the grant period.
- ii. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- iii. 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.
- iv. Reimbursements will only be made for actual expenses incurred during the Grant Award Period provided in Section 1. Subgrantee agrees that no grant or, if applicable, match funds may be used for expenses incurred before or after the Grant Award Period.

- c. Audit Reports.** Upon request by OEM, Subgrantee shall provide OEM copies of all audit reports pertaining to this Agreement obtained by Subgrantee, whether or not the audit is required by OMB Circular A-133 as described in Section 8.c.i and ii herein.

**6. Disbursement and Recovery of Grant Funds.**

- a. Disbursement Generally.** OEM shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by OEM upon approval by OEM of an RFR. Eligible costs are the reasonable and necessary costs incurred by Subgrantee for the Project, in accordance with the Emergency Management Performance Grants guidance and application materials, including without limitation the United States Department of Homeland Security Funding Opportunity Announcement (FOA) , that are not excluded from reimbursement by OEM, either by this Agreement or by exclusion as a result of financial review or audit. The guidance, application materials and FOA are available at [http://www.oregon.gov/OMD/OEM/Pages/plans\\_train/EMPG.aspx](http://www.oregon.gov/OMD/OEM/Pages/plans_train/EMPG.aspx).



- b. **Conditions Precedent to Disbursement.** OEM's obligation to disburse Grant Funds to Subgrantee is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
- i. OEM has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to make the disbursement.
  - ii. Subgrantee is in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
  - iii. Subgrantee's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
  - iv. Subgrantee has provided to OEM a RFR in accordance with Section 5.b of this Agreement.
- c. **Recovery of Grant Funds.** Any funds disbursed to Subgrantee under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement ("Unexpended Funds") must be returned to OEM. Subgrantee shall return all Misexpended Funds to OEM promptly after OEM's written demand and no later than 15 days after OEM's written demand. Subgrantee shall return all Unexpended Funds to OEM within 14 days after the earlier of expiration or termination of this Agreement.
7. **Representations and Warranties of Subgrantee.** Subgrantee represents and warrants to OEM as follows:
- a. **Organization and Authority.** Subgrantee is a political subdivision of the State of Oregon and is eligible to receive the Grant Funds. Subgrantee has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subgrantee of this Agreement (1) have been duly authorized by all necessary action of Subgrantee and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subgrantee is a party or by which Subgrantee or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subgrantee of this Agreement.
  - b. **Binding Obligation.** This Agreement has been duly executed and delivered by Subgrantee and constitutes a legal, valid and binding obligation of Subgrantee, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - c. **No Solicitation.** Subgrantee's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
  - d. **NIMS Compliance.** By accepting FY 2013 funds, Subgrantee certifies that it has met National Incident Management System (NIMS) compliance activities outlined in the Oregon NIMS

Requirements located through the OEM at  
[http://www.oregon.gov/OMD/OEM/Pages/plans\\_train/NIMS.aspx](http://www.oregon.gov/OMD/OEM/Pages/plans_train/NIMS.aspx)

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

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

- a. Records, Access to Records and Facilities.** Subgrantee shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Subgrantee acknowledges and agrees, and Subgrantee will require its contractors, subcontractors, sub-recipients (collectively hereafter "contractors"), successors, transferees, and assignees to acknowledge and agree, to provide OEM, Oregon Secretary of State (Secretary), Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, access to records, accounts, documents, information, facilities, and staff. Subgrantee and its contractors must cooperate with any compliance review or complaint investigation by any of the above listed agencies, providing them access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary. The right of access is not limited to the required retention period but shall last as long as the records are retained.
- b. Retention of Records.** Subgrantee shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for until the latest of (a) six years following termination, completion or expiration of this Agreement, (b) upon resolution of any litigation or other disputes related to this Agreement, or (c) an extended period as established under 44 CFR 13.42. It is the responsibility of 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.
- c. Audits.**
- i. If Subgrantee expends \$500,000 or more in Federal funds (from all sources) in its fiscal year, 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 Subgrantee expends less than \$500,000 in its fiscal year in Federal funds, 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 8.a. herein.
  - ii. Audit costs for audits not required in accordance with OMB Circular A-133 are unallowable. If 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.
  - iii. Subgrantee shall save, protect and hold harmless the OEM from the cost of any audits or special investigations performed by the Secretary or any federal agency with respect to the funds expended under this Agreement. Subgrantee acknowledges and agrees that any audit costs incurred by Subgrantee as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subgrantee and the State of Oregon.

**9. Subgrantee Procurements; Property and Equipment Management and Records; Subcontractor Indemnity and Insurance**

- a. **Subagreements.** Subgrantee may enter into agreements (hereafter "subagreements") for performance of the Project. Subgrantee shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable Federal and State law (including without limitation ORS chapters 279A, 279B, 279C).
- i. Subgrantee shall provide to OEM copies of all Requests for Proposals or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OEM, upon request by OEM, such documents for procurements for less than \$100,000. Subgrantee shall include with its RFR a list of all procurements issued during the period covered by the report.
  - ii. All subagreements, 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 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.
  - iii. 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, 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.
  - iv. Subgrantee agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
- b. **Purchases and Management of Property and Equipment; Records.** Subgrantee agrees to comply with all applicable federal requirements referenced in Exhibit B, Section II.C.1 to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:
- i. All property and equipment purchased under this agreement, whether by Subgrantee or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subgrantee's property or equipment inventory system.
  - ii. Subgrantee's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.
  - iii. A physical inventory of the property and equipment must be taken and the results reconciled with the property and equipment records at least once every two years.

- iv. Subgrantee must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subgrantee shall investigate any loss, damage, or theft and shall provide the results of the investigation to OEM upon request.
  - v. Subgrantee must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
  - vi. If Subgrantee is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
  - vii. Subgrantee agrees to comply with 44 CFR Part 13.32.e when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.
  - viii. Subgrantee shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
  - ix. Subgrantee shall, and shall require its contractors to, retain, the records described in this Section 9.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OEM. Title to all property and equipment purchased with Grant Funds shall vest in Subgrantee if Subgrantee provides written certification to OEM that it will use the property and equipment for purposes consistent with the Emergency Management Performance Grant Program.
- c. Subagreement indemnity; insurance.** *Subgrantee's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OEM and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subgrantee's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that OEM shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of OEM, be indemnified by the other party to Subgrantee's subagreement(s) from and against any and all Claims.*

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

Subgrantee shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

## 10. Termination

- a. **Termination by OEM.** OEM may terminate this Agreement effective upon delivery of written notice of termination to Subgrantee, or at such later date as may be established by OEM in such written notice, if:
- i. Subgrantee fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subgrantee is, for any reason, rendered improbable, impossible, or illegal; or
  - ii. OEM fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
  - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
  - iv. The Project would not produce results commensurate with the further expenditure of funds; or
  - v. Subgrantee takes any action pertaining to this Agreement without the approval of OEM and which under the provisions of this Agreement would have required the approval of OEM.
  - vi. OEM determines there is a material misrepresentation, error or inaccuracy in Subgrantee's application.
- b. **Termination by Subgrantee.** Subgrantee may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Subgrantee in such written notice, if:
- i. The requisite local funding to continue the Project becomes unavailable to Subgrantee; or
  - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.

## 11. GENERAL PROVISIONS

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

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

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

- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 11.b.
- c. **Responsibility for Grant Funds.** Any recipient of Grant Funds, pursuant to this Agreement with OEM, shall assume sole liability for that recipient's breach of the conditions of this Agreement, and shall, upon such recipient's breach of conditions that requires OEM to return funds to the FEMA, hold harmless and indemnify OEM for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. **Duplicate Payment.** Subgrantee is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.

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

Subgrantee acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to Subgrantee, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. 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, email or mailing the same by registered or certified mail, postage prepaid to Subgrantee or OEM at the appropriate address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. 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. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. 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.
- h. 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 OEM (or any other agency or department of the State of Oregon) and Subgrantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State 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. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- i. Compliance with Law.** Subgrantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Subgrantee expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- j. Insurance; Workers' Compensation.** All employers, including Subgrantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS

656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subgrantee shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.

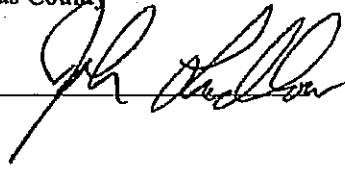
- k. Independent Contractor.** Subgrantee shall perform the Project as an independent contractor and not as an agent or employee of OEM. Subgrantee has no right or authority to incur or create any obligation for or legally bind OEM in any way. OEM cannot and will not control the means or manner by which Subgrantee performs the Project, except as specifically set forth in this Agreement. Subgrantee is responsible for determining the appropriate means and manner of performing the Project. Subgrantee acknowledges and agrees that Subgrantee is not an "officer", "employee", or "agent" of OEM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- m. Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. Integration and Waiver.** This Agreement, including all Exhibits and referenced documents, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Subgrantee, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW



Clackamas County

By 

Name John Ludlow  
(printed) Chair

Date 11-27-13 F-2

**APPROVED AS TO LEGAL SUFFICIENCY**  
(If required for Subgrantee)


By   
Subgrantee's Legal Counsel

Date 7 November 2013

**Subgrantee Program Contact:**  
Nancy Bush  
Clackamas County Emergency Management  
2200 Kaen Road  
Oregon City, OR 97045  
503-655-8665  
nbush@co.clackamas.or.us

**Subgrantee Fiscal Contact:**  
Marc Gonzales  
Clackamas County Emergency Management  
2200 Kaen Road  
Oregon City, OR 97045  
503-742-5405  
marcg@co.clackamas.or.us

OEM

By 

Sean McCormick  
Mitigation and Recovery Services Section Director, OEM

Date 9-Dec-13

**APPROVED AS TO LEGAL SUFFICIENCY**  
(For Grant Funds over \$150,000)

By: Keith L. Kutler via e-mail  
Assistant Attorney General

Date : October 8, 2013

**OEM Program Contact:**  
Kelly Jo Craigmiles  
EMPG Program Coordinator  
Oregon Military Department  
Office of Emergency Management  
PO Box 14370  
Salem, OR 97309-5062  
503-378-2911 extension 22246  
kelly.jo.craigmiles@state.or.us

**OEM Fiscal Contact:**  
Dan Gwin  
Grants Accountant  
Oregon Military Department  
Office of Emergency Management  
PO Box 14370  
Salem, OR 97309-5062  
503-378-2911 extension 22290  
dan.gwin@state.or.us

## **EXHIBIT A**

### **Project Description and Budget**

#### **Project Description**

The FY2013 EMPG Program focuses on the development and sustainment of core capabilities as outlined in the National Preparedness Strategy. Particular emphasis is placed on building and sustaining capabilities that address high consequence events that pose the greatest risk to the security and resilience of the United States. Capabilities are the means to accomplish a mission, function, or objective based on the performance of related tasks, under specified conditions, to target levels of performance. The FY2013 EMPG Work Plan identifies the specific tasks to be performed towards the development and sustainment of core capabilities in Subgrantee's jurisdiction. The funds from this agreement are meant to supplement a portion of Subgrantee's day-to-day operational costs for Emergency Management, as outlined in Subgrantee's approved Work Plan. The Work Plan may be updated upon approval by OEM.

#### **Budget**

Personnel	\$363,597
County Cost Allocations	\$52,641
<b>Total</b>	<b>\$416,238</b>

## EXHIBIT B

### Federal Requirements and Certifications

**I. General.** Subgrantee agrees to comply with all federal requirements applicable to this Agreement, including without limitation financial management and procurement requirements and 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), the Office of Management and Budget (OMB) Circulars, Department of Homeland Security (DHS) program legislation, and DHS/Federal Emergency Management Agency (FEMA) regulations.

#### II. Specific Requirements and Certifications

- A. Debarment, Suspension, Ineligibility and Voluntary Exclusion.** 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 (44 CFR Part 13.35). Subgrantee shall establish procedures to provide for effective use and 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.** Subgrantee is required to comply with 44 CFR Part 18, *New Restrictions on Lobbying*. The restrictions on lobbying are enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per expenditure. Subgrantee understands and agrees that no funds provided under this Agreement may be expended in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government. These lobbying prohibitions can be found at 31 USC § 1352.
- C. Compliance with Applicable Law.** 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, including without limitation for the active tracking and monitoring of property and equipment purchased by Subgrantee or its contractors in whole or in part with Grant Funds, and 44 CFR Part 13.32(e) when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.
  2. Cost Principles set forth in 2 CFR Part 225 and 48 CFR Federal Acquisition Regulation (FAR) Part 31.2, including without limitation, as provided in 2 CFR Part 225, Appendix A, paragraph (C)(3)(c), that costs allocable to this Grant may not be charged to other Federal awards to overcome fund deficiencies.
  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 USC § 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).
  6. Animal Welfare Act of 1966, as amended, 7 USC § 2131 et seq.

7. Clean Air Act of 1970, as amended, 42 USC § 7401-7671, and Clean Water Act of 1977, as amended, 33 USC § 1251.
8. Protection of Human Subjects, set forth in 45 CFR Part 46.
9. National Flood Insurance Act of 1968, as amended, 42 USC § 4013, pursuant to regulations set forth in 44 CFR Part 63.b
10. Flood Disaster Protection Act of 1973, as amended, 42 USC § 4002.
11. Coastal Wetlands Planning, Protection, and Restoration Act of 1990, as amended, 16 USC § 3951, pursuant to regulations set forth in 44 CFR Part 9.
12. USA Patriot Act of 2001, as amended, 8 USC § 1105, 1182, 1189.
13. Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 USC 2225(a).
14. 31 USC 3729, prohibiting recipients of federal payments from submitting a false claim for payment. *See* 38 USC 3801-3812 detailing administrative remedies for false claims and statements made.
15. No supplanting. Grant Funds under this Agreement shall not replace funds that have been budgeted for the same purposes through non-Federal sources. Subgrantee may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than receipt or expected receipt of Federal funds.

**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.** Subgrantee, and all its contractors and subcontractors, assures compliance with all applicable nondiscrimination laws, including but not limited to:
  - a. Title VI of the Civil Rights Act of 1964, as amended, and related nondiscrimination regulations in 44 CFR Part 7.
  - b. Title VIII of the Civil Rights Act of 1968, as amended.
  - c. Titles I, II, and III of the Americans with Disabilities Act of 1990, as amended, 42 USC §§ 12101 – 12189.
  - d. Age Discrimination Act of 1975, 42 USC § 6101.
  - e. Title IX of the Education Amendments of 1972, as amended, 20 USC § 1681 et seq.
  - f. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794, as amended.

If, during the past three years, Subgrantee has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, Subgrantee must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the OEM. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against Subgrantee, or Subgrantee settles a case or matter alleging such discrimination, Subgrantee must forward a copy of the complaint and findings to the OEM.

2. **Equal Employment Opportunity Program.** 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. Subgrantee must maintain a current copy on file.
3. **Services to Limited English Proficient (LEP) Persons.** Subgrantee, and any of its contractors and subcontractors agrees to comply with the requirements of Executive Order 13166, improving Access to

Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of LEP. To ensure compliance with Title VI, Subgrantee must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subgrantee is encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance additional information regarding LEP obligations, please see <http://www.lep.gov>.

**E. Environmental and Historic Preservation.**

1. 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 of 1969, as amended, 42 USC § 4321, and related FEMA regulations, 44 CFR Part 10.
  - b. National Historic Preservation Act, 16 USC § 470 et seq.
  - c. Endangered Species Act, 16 USC § 1531 et seq.
  - d. Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).

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

2. 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. 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, Subgrantee must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, 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 Subgrantee's or its contractors' or subcontractors' existing programs or activities that will be funded by these grant funds, Subgrantee, upon specific request from the U.S. DHS, agrees to cooperate with the U.S. DHS in any preparation by the U.S. DHS of a national or program environmental assessment of that funded program or activity.

**F. Drug Free Workplace Requirements (2 CFR Part 3001).** Subgrantee agrees to comply with the requirements of the Drug-Free Workplace Act of 1988, as amended, (41 USC § 701 et seq.), which requires that all organizations receiving grants (or subgrants) from any Federal agency agree to maintain a drug-free workplace. Subgrantee must notify this office if an employee of Subgrantee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment.

**G. Classified National Security Information.** No funding under this Agreement shall be used to support a contract, subgrant 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. See award notification.

**H. Human Trafficking (2 CFR Part 175).** Subgrantee, employees, contractors and subrecipients under this Agreement 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 subgrant or subgrants under the award.

Subgrantee must inform OEM immediately of any information Subgrantee receives from any source alleging a violation of any of the above prohibitions in this award term. OEM's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. Subgrantee must include these requirements in any subgrant made to public or private entities.

**I. Fly America Act of 1974.** Subgrantee agrees to comply with the requirements of the Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 USC § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, (49 USC § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to the Comptroller General Decision B138942.

**J. Activities Conducted Abroad.** Subgrantee agrees to comply with the requirements that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

**K. Acknowledgement of Federal Funding from DHS.** Subgrantee agrees to comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

**L. Copyright (44 CFR Part 13.34).** Subgrantee agrees to comply with requirements that publications or other exercise of copyright for any work first produced under Federal financial assistance awards hereto related unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this Agreement, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, Subgrantee grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works. Subgrantee shall affix the applicable copyright notices of 17 USC § 401 or 402 and an acknowledgement of Government sponsorship (including Subgrant number) to any work first produced under an award.

**M. Use of DHS Seal, Logo and Flags.** Subgrantee agrees to obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

**N. Personally Identifiable Information (PII).** Subgrantee, if it collects PII, is required to have a publically available privacy policy that described what PII they collect, how they use it, whether they share it with third parties and how individuals may have their PII corrected where appropriate.

**O. No supplanting.** Grant Funds under this Agreement shall not replace funds that have been budgeted for the same purposes through non-Federal sources. Subgrantee may be required to

demonstrate and document that a reduction in non-Federal resources occurred for reasons other than receipt or expected receipt of Federal funds.

**P. Federal Debt Status.** Subgrantee shall be non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, benefit overpayments and any amounts due under Section 11.c of this Agreement.

## EXHIBIT C

### Subagreement Insurance Requirements

#### GENERAL.

Subgrantee shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. 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 State. Subgrantee shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Subgrantee shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Subgrantee shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subgrantee permit work under a subagreement when Subgrantee is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which Subgrantee is a Party.

#### TYPES AND AMOUNTS.

i. **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). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

ii. **COMMERCIAL GENERAL LIABILITY.**

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to State. 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 OEM:

**Bodily Injury, Death and Property Damage:**

\$4,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

iii. **AUTOMOBILE Liability Insurance: Automobile Liability.**

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"). Automobile Liability Insurance must be in not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

\$4,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

**ADDITIONAL INSURED.** The Commercial General Liability Insurance and Automobile Liability insurance must include OEM, 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.

**"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 Subgrantee'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 OEM may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If OEM approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

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

**CERTIFICATE(S) OF INSURANCE.** Subgrantee 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.

Approval of Previous Business Meeting Minutes:

May 8, 2014

May 15, 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, May 8, 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 Martha Schrader  
Commissioner Tootie Smith**

### **I. CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **II. CITIZEN COMMUNICATION**

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

1. Sherry Hall, County Clerk wanted to give an update regarding the May 20<sup>th</sup> Primary Election.

*~Board Discussion~*

2. Les Poole, Gladstone – spoke regarding Metro.
3. Yvonne Lazarus, Milwaukie – spoke regarding the importance of voting.

### **III. PRESENTATION**

1. Clackamas River and Barton/Carver Outreach  
Tracy Moreland, Public and Government Affairs presented the staff report including a 4 minute video regarding the issues on the Clackamas River. She introduced some of the folks from the video that are in the audience today.

*~Board Discussion~*

\*Commissioner Smith is excused to attend another meeting.

### **IV. PUBLIC HEARING**

1. First Reading of Ordinance No. **02-2014** Amending Chapter 6.06 Park Rules of the Clackamas County Code and Declaring an Emergency  
Rick Gruen, County Parks and Kathleen Rastetter, County Counsel presented the staff report. The second reading will be on May 22, 2014

*~Board Discussion~*

Chair Ludlow opened the public hearing and asked if anyone wished to speak, seeing none, he asked for a motion to read the Ordinance by title only.

#### **MOTION:**

Commissioner Savas: I move we read the Ordinance by title only.

Commissioner Bernard: Second

Clerk calls the poll:

Commissioner Bernard: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye - the motion passes 4-0. He asked the Clerk to assign a number and read the Ordinance by title only.

Chair Ludlow announced the second reading of the Ordinance will be May 22<sup>nd</sup> at the regular scheduled Business Meeting at 10 AM

**V. DISCUSSION ITEMS**

*~NO DISCUSSION ITEMS SCHEDULED*

**VI. CONSENT AGENDA**

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

**MOTION:**

Commissioner Schrader: I move we approve the Consent Agenda.

Commissioner Bernard: Second

Clerk calls the poll:

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Commissioner Bernard: Aye.

Chair Ludlow: Aye - the motion passes 4-0

**A. Health, Housing & Human Services**

1. Board Order No. **2014-41** Approval of a Mental Health Director's Designee to Authorize a Custody Hold under *ORS 426.233 – Behavioral Health*

**B. Department of Transportation & Development**

1. Board Order No. **2014-42** Adopting the Vacation of Steel Lane in Government Camp.

**C. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Amendment No. 2 to State of Oregon Intergovernmental Agreement No. 143653 for Improvement of Quality of Juvenile Dependency Proceedings – *District Attorney*
3. Approval to Submit a Grant Application for the Victims of Crime Act (VOCA) Project Grant/VOCA-C-2014-Clackamas Co.DAVAP-00047 – *District Attorney*
4. Approval of Amendment No. 5 to a Professional Services Contract with Corizon Health for Jail Medical Services – *Sheriff's Office*
5. Request by Clackamas County Sheriff's Office to Enter into an Annual Operating Plan and Financial Plan with the USDA Forest Service for Cooperative Law Enforcement Services in the Mt. Hood National Forest - *Sheriff's Office*

**D. Business & Community Services**

1. Amendment No. 1 to an Intergovernmental Agreement with Oregon Solutions/Portland State University for the Clackamas County FoodSystem ONESop as Part of the County's Agriculture Investment Plan Strategy

**VII. WATER ENVIRONMENT SERVICES**

1. Approval of a Professional Services Agreement between the Tri-City Service District and MWH Americas, Inc., for the Willamette Pump Station Rehabilitation and Conveyance System Evaluation

**VIII. COUNTY ADMINISTRATOR UPDATE**

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

**IX. COMMISSIONERS COMMUNICATION**

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

**MEETING ADJOURNED – 11:21 AM**

**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](http://www.clackamas.us/bcc/business.html)

## **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, May 15, 2014 - 6:00 PM**

**Public Services Building**

**2051 Kaen Rd., Oregon City, OR 97045**

**PRESENT:** Commissioner John Ludlow, Chair  
Commissioner Jim Bernard  
Commissioner Paul Savas  
Commissioner Martha Schrader (arrived after the Housing Authority consent agenda)  
Commissioner Tootie Smith  
Housing Authority Commissioner Paul Reynolds

### **I. CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

Chair Ludlow invited Judge Karen Brisbin to come up and speak regarding the Justice Court move and new location.

Chair Ludlow announced the Board will be sitting as the Housing Authority Board for the first item; he introduced Paul Reynolds, Housing Authority Commissioner.

### **II. HOUSING AUTHORITY CONSENT AGENDA**

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

1. Approval of Final Award of 20 Project Based Vouchers to Central City Concern's Chez Ami Apartment Complex and Approval to Enter into a Housing Assistance Payment Contract

#### **MOTION:**

Commissioner Reynolds: I move we approve the Housing Authority consent agenda.  
Commissioner Bernard: Second.  
Clerk to call the poll:  
Commissioner Reynolds: Aye.  
Commissioner Savas: Aye.  
Commissioner Smith: Aye.  
Commissioner Bernard: Aye.  
Chair Ludlow: Aye – the motion passes 5-0.

Chair Ludlow adjourned as the Housing Authority Board and convened as the Board of County Commissioners for the remainder of the meeting.

### **III. CITIZEN COMMUNICATION**

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

1. Sherry Hall, County Clerk gave update of the upcoming election.
- ~Board Discussion~
2. Shirley Soderberg, Milwaukie – negative political junk mail.
  3. Joy Lot, Milwaukie – negative political junk mail and ballot concerns.
  4. Jo Haverkamp, Oregon City – negative political flyers.
  5. Maryanna Moore, Gladstone – spoke about the candidates for Commissioner.
  6. Ginny Davidson, Milwaukie – negative
  7. Les Poole, Gladstone –
  8. Linda Neice, Gladstone – Candidate for County Clerk.

**IV. PRESENTATIONS**

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1. Proclaiming May 18<sup>th</sup> – 24<sup>th</sup> 2014 as National Public Works Week in Clackamas County  
Barb Cartmill, Department of Transportation & Development presented the staff report and read the proclamation.

*~Board Discussion~*

**MOTION:**

Commissioner Smith: I move we proclaim the week of May 18, 2014 as National Public Works Week in Clackamas County.

Commissioner Bernard: Second.

*~Board Discussion~*

Clerk call the poll:

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

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

---

2. Resolution No. **2014-43** Naming the County's Fleet/Weighmaster Building as the Grady J. Waxenfelter Building

Barb Cartmill, Department of Transportation & Development presented the staff report.

*~Board Discussion~*

**MOTION:**

Commissioner Schrader: I move we approve the Resolution Naming the Clackamas County Fleet/Weighmaster Building as the Grady J. Waxenfelter Building.

Commissioner Savas: Second.

*~Board Discussion~*

Clerk call the poll:

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Commissioner Smith: Aye.

Commissioner Bernard: Aye.

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

---

3. Presentation of the Findings from the 2014 Clackamas County Community Survey  
Gary Schmidt, Public and Government Affairs presented the staff report along with a PowerPoint presentation with charts showing the finding from the 2014 Clackamas County Community Survey.

*~Board Discussion~*

**V. DISCUSSION ITEMS**

***~NO DISCUSSION ITEMS SCHEDULED***

## **VI. 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 Schrader: Second  
Clerk calls the poll:  
Commissioner Schrader: Aye.  
Commissioner Smith: Aye.  
Commissioner Savas: Aye.  
Commissioner Bernard: Aye.  
Chair Ludlow: Aye - the motion passes 5-0

### **A. Health, Housing & Human Services**

1. Approval to Apply for a Grant from Washington County for the Healthy Families Service Program – *Children, Youth & Families*

### **B. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*

## **VII. DEVELOPMENT AGENCY**

1. Approval of Bylaws for the Clackamas County Development Agency Budget Committee

## **VIII. WATER ENVIRONMENT SERVICES**

1. Approval of an Intergovernmental Agreement between Clackamas County Service District No. 1, Tri-City Service District, and Clackamas County for Facilities Management and Maintenance Services
2. Approval and Acceptance of a Service Connection Mortgage in the North Clackamas Service Area for Clackamas County Service District No. 1
3. Approval of an Intergovernmental Agreement with Oak Lodge Sanitary District Regarding the Provision of Management Services

## **IX. COUNTY ADMINISTRATOR UPDATE**

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

## **X. COMMISSIONERS COMMUNICATION**

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

## **MEETING ADJOURNED – 11:35 AM**

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ELLEN CRAWFORD  
DIRECTOR

**JUVENILE DEPARTMENT**

June 5, 2014

**JUVENILE INTAKE AND ASSESSMENT CENTER**  
2121 KAEN ROAD | OREGON CITY, OR 97045

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Amendment No. 1 to Contract No. 931488  
Between Metro and Clackamas County

<b>Purpose/Outcomes</b>	This Contract was initially signed between Clackamas County through Department of Transportation and Metro on October 1, 2012. Negotiations have continued over the past several months to transfer the Contract to the Juvenile Department for community service work crews for youth.
<b>Dollar Amount and Fiscal Impact</b>	The maximum contract value is up to \$75,000.
<b>Funding Source</b>	Metro
<b>Safety Impact</b>	
<b>Duration</b>	Effective January 1, 2014 through June 30, 2015
<b>Previous Board Action</b>	Board approved the original contract January 17, 2013.
<b>Contact Person</b>	Ellen Crawford, Director – Juvenile Department – 503-655-8342 ext 3171
<b>Contract No.</b>	931488

**BACKGROUND:**

Attached is Amendment No. 1 to Contract 931488 between Clackamas County and Metro. Originally Metro and the Department of Transportation (DTD) entered into a contract in October, 2012 for the sum of \$75,000.00. The purpose of this contract was for Clackamas County to provide litter removal in a specified area along I-205. This contract was managed and carried out by DTD. After discussions between DTD and the Juvenile Department, it was decided that the work crews could be provided by juveniles thereby increasing the community service work crews already run by the Juvenile Department. Discussions continued with Metro and the attached Amendment to the original contract was created.

County Counsel has reviewed and approved this Amendment as of May 20, 2014.

**RECOMMENDATION:**

Staff recommends the Board approval of Amendment No. 1 to Contract 931488. Staff further recommends delegating authority to sign contract renewals to the Juvenile Department Director.

Respectfully submitted,  
*Ellen F. Crawford*

Ellen Crawford, Director  
Juvenile Department

For more information on this issue or copies of attachments, please contact Crystal Wright at 503-655-8342 ext 7112.



600 NE Grand Ave.  
Portland, OR 97232-2736  
503- 797-1700

# Amendment

**AMENDMENT NO. 01**

**CONTRACT NO. 931488**

This Amendment hereby amends the above titled contract between Metro, a metropolitan service district organized under the law of the State of Oregon and the Metro Charter, and Clackamas County, hereinafter referred to as "County."

This amendment is a change order to the original Scope of Work as follows:

County and Metro wish to transfer management of this Agreement from County's Department of Transportation and Development to its Juvenile Department, to change County's project manager and to replace the Scope of Work. County and Metro therefore agree that beginning January 1, 2014 this Agreement shall be managed by County's Juvenile Department, informal coordination of this Agreement will be conducted by the following designated Project Managers:

**For Clackamas County:**

Mark McDonnell  
Clackamas County Juvenile Department  
2121 Kaen Road  
Oregon City, OR 97045

**For Metro:**

Penny Erickson  
Metro - Parks & Environmental Services  
600 NE Grand Avenue  
Portland, OR 97232

In addition the Scope of Work is hereby replaced in its entirety by the attached Scope of Work - Attachment A.

Except for the above, all other conditions and covenants remain in full force and effect.

IN WITNESS TO THE ABOVE, the following duly authorized representatives of the parties referenced have executed this Amendment.

CLACKAMAS COUNTY JUVENILE DEPARTMENT,  
By and through Ellen Crawford, Director

METRO

By \_\_\_\_\_

By \_\_\_\_\_

Ellen Crawford, Director \_\_\_\_\_

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

Date \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014  
BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



600 NE Grand Ave.  
Portland, OR 97232-2736  
503-797-1700

## Scope of Work – Attachment A

---

**AMENDMENT NO. 01**

**CONTRACT NO. 931488**

1. County shall collect litter from roadsides along: 3.5 miles of I-205 from the Oregon City exit north to the Clackamas exit; 1.0 mile of Washington Street from the Abernethy Road intersection north to the Agnes Street intersection on the north side of I-205; 0.5 miles of Clackamas River Drive from its intersection with Washington Street, north to a point one-half mile distant; and both sides of Oregon City Bypass for a distance of 1.0 mile from the intersection of Washington Street and Oregon City Bypass.
2. County shall collect litter approximately once every seven (7) days on a date agreed to by both parties in advance. Saturdays shall be the preferred day of the week.
3. County shall fill litterbags and place them along the roadside. Filled bag disposal will be provided by Metro. Metro will reimburse County for the cost of litter bags utilized for this contract.
4. Workers shall be courteous to the public, not obstruct traffic, and shall in all ways conduct themselves in a manner properly representative of Metro and County.
5. County shall supply all labor and supervision. Supervisors shall be trained and experienced in managing each work crew. Approximately four to six workers shall be provided per crew. Two crews should be used when possible. County may outsource supervision. Labor shall be provided as set forth in paragraph 14, below.
6. County shall be paid a stipend of \$50.00 per youth for each worker working a full shift (shift defined as 6 hours) on the crew, and vocational education and training (not to exceed 8 hours per month, per youth).
7. County shall be paid an hourly wage of \$17.50 for the Crew Leader and \$15.50 for the Assistant Crew Leader. Hourly wage is accumulated in crew preparation and conclusion (not to exceed 2 hours per day, per Crew Leader), when the collection crews are working (not to exceed 6 hours per day, per Crew Leader), and in vocational education and training activities (not to exceed 8 hours per month, per Crew Leader).
8. County shall be paid for 1.5 hours per week at \$94.00 per hour for program administration, not to exceed \$7,332.00 per year.
9. County shall be reimbursed for work crew vehicle rental costs at \$94.00 per workday for one vehicle, not to exceed \$4,888.00 per year.
10. Metro shall reimburse County for replacement traffic control signs and grapplers (litter sticks) that are worn out or damaged during the performance of duties under this Agreement.



**Metro**

600 NE Grand Ave.  
Portland, OR 97232-2736  
503- 797-1700

## Scope of Work – Attachment A

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**AMENDMENT NO. 01**

**CONTRACT NO. 931488**

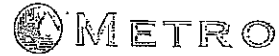
11. All visible, unconcealed litter objects, greater than approximately one square inch in size shall be collected. Bulky items may be separately set along the roadside. Items of excess unmanageable weight shall not be handled. Supervisors shall see that the workers perform according to the stipulations and use extreme caution at all times. County is responsible for the safety of the crew.
12. County will provide special cleanup crews, when available, for major cleanup efforts on public lands required after storms, high winds, or other such occurrences.
13. The entire collection area shall be picked up at least once every two weeks.
14. County will use at-risk youth to provide the services covered in this scope and ensure that appropriate youth are selected for participation. At no time will County use contracted labor for work in this scope, other than crew supervision. If County cannot meet these obligations it will be required to report said problems within 10 days to the Metro Project Manager.

### **Reporting**

County will document the following information weekly:

1. Date of crew and/or vocational education component;
2. Start time and end time (of youth crew members and crew leaders);
3. Specific location of service provided or educational activity;
4. Crew leader names; and,
5. Number of crew members present.

County will communicate the documented information to Metro on a quarterly basis.



600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

## Intergovernmental Agreement

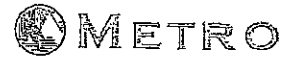
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Metro Contract No. 931488

THIS AGREEMENT, entered into under the provisions of ORS Chapter 190, is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232-2736, and the Clackamas County Department of Transportation and Development ("County"), whose address is 150 Beavercreek Road, Oregon City, Oregon 97045.

In exchange for the promises and other valuable consideration set forth below, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to establish the responsibilities of the parties in collecting litter in the vicinity of Metro South Transfer Station.
2. Term. This Agreement shall be effective October 1, 2012, and shall remain in effect through June 30, 2015 unless earlier terminated in conformance with this Agreement.
3. Services Provided. County and Metro shall perform the services described in the attached Scope of Work (Attachment A), which is made part of this Agreement by reference, and otherwise fully comply with the provisions in the attached Scope of Work.
4. Payment for Services. Metro shall pay County for services performed and materials supplied as set forth in the Scope of Work a maximum of SEVENTY-FIVE THOUSAND AND NO/100THS DOLLARS (\$75,000.00). Metro will make payments on a quarterly basis within thirty (30) days of receipt of County's invoice.
5. Insurance. County agrees to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this Agreement to levels necessary to protect against public body liability as specified in ORS 30.270. County also agrees to maintain for the duration of this Agreement, Workers' Compensation Insurance coverage for all its employees as a self-insured employer, as provided by ORS chapter 656, or disability coverage under its Disability, Retirement and Death Benefits Plan.



600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

# Intergovernmental Agreement

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6. Indemnification. Subject to the limits of the Oregon Constitution and Oregon Tort Claims Act, County shall hold harmless Metro, its officers and employees from any claims or damages or property or injury to persons or for any penalties or fines, which may be occasioned in whole or in part by County's actions under this Agreement.

7. Termination. This Agreement may be terminated by either party without cause upon giving 30 days written notice of intent to terminate. This Agreement may be terminated with less than 30 days notice if a party is in default of the terms of this Agreement. In the case of a default, the party alleging the default shall give the other party at least 10 days written notice of the alleged default, with opportunity to cure within the 30 day period.

8. State Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279A, B & C and to the extent those provisions apply, they are incorporated into this Agreement by reference. Specifically, it is a condition of this Contract that all employers working under this Agreement are subject employers that will comply with ORS 656.017.

9. Notices. Legal notice provided under this Agreement shall be delivered personally or by certified mail to the following individuals:

For Clackamas County:  
County Counsel  
2051 Kaen Road  
Oregon City, OR 97045

For Metro:  
Office of Metro Attorney  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Informal coordination of this Agreement will be conducted by the following designated Project Managers:

For Clackamas County:  
Terry Ellison  
Clackamas County Transportation  
902 Abernethy Road  
Oregon City, OR 97045

For Metro:  
Penny Erickson  
600 NE Grand Ave.  
Metro  
Portland, OR 97232

County may change the above-designated Project Manager by written notice to Metro. Metro may



600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

# Intergovernmental Agreement

10. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either party without prior written approval by the other party.

11. Integration. This writing contains the entire Agreement between the parties, and may only be amended by written instrument, signed by both parties.

12. Severability. If any portion of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken.

This Agreement is dated as of the last signature date below.

Clackamas County Department of  
Transportation and Development,  
by and through Cam Gilmour, Director

Metro

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

*Cam Gilmour*

Cam Gilmour, Director

Date

*1-17-2013*

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

*Trinity L. Collier, Deputy Director of PAS*  
Print name and title

Date

*10/31/12*

APPROVED AS TO FORM:

*[Signature]*  
County Counsel

DATED this *17* day of *January*, 20*13*

BOARD OF COUNTY COMMISSIONERS

Chair

*[Signature]*  
Recording Secretary



## Scope of Work – Attachment A

---

Metro Contract No. 931488

1. County shall collect litter from roadsides along: 3.5 miles of I-205 from the Oregon City exit north to the Clackamas exit; 1 mile of Washington Street from the Abernethy Road intersection north to the Agnes Street intersection on the north side of I-205; 0.5 miles of Clackamas River Drive from its intersection with Washington Street, north to a point one-half mile distant; and both sides of Oregon City Bypass for a distance of 1 mile from the intersection of Washington Street and Oregon City Bypass.
2. County shall collect litter approximately once every seven (7) days on a date agreed to by both parties in advance. Saturdays shall be the preferred day of the week.
3. County shall fill litterbags and place them along the roadside. Filled bag disposal will be provided by Metro. Metro will reimburse County for the cost of litterbags utilized for this contract.
4. Workers shall be courteous to the public, not obstruct traffic, and shall in all ways conduct themselves in a manner properly representative of Metro and County.
5. County shall supply all labor and supervision. Supervisors shall be trained and experienced in managing each work crew. Approximately four to six workers shall be provided per crew. Two crews should be used when possible.
6. County shall be paid minimum wage (currently \$8.80) per man-hour for litter collection services, and \$18.50 per hour for each of two supervisors when the collection crews are working.
7. County shall be paid for 1.5 hours per week at \$94.00 per hour for program administration, not to exceed \$7,732 per year.
8. County shall be reimbursed for work crew vehicle rental costs at \$189.76 per workday (\$94.88 per vehicle) for two vehicles not to exceed \$8,488.00 per year.
9. Metro shall reimburse the County for replacement traffic control signs and grapplers (litter sticks) that are worn out or damaged during the performance of duties under this agreement.
10. All visible, unconcealed litter objects, greater than approximately one square inch in size shall be collected. Bulky items may be separately set along the roadside. Items of excess unmanageable weight shall not be handled. Supervisors shall see that the workers perform according to the stipulations and use extreme caution at all times. County is responsible for the safety of the crew.
12. County will provide special cleanup crews, when available, for major cleanup efforts on public lands required after storms, high winds or other such occurrences.
13. The entire collection area shall be picked up at least once every two weeks.
14. County will use adult offenders to provide the services covered in this scope and ensure that appropriate offenders are selected for participation.



ELLEN CRAWFORD  
DIRECTOR

**JUVENILE DEPARTMENT**

**JUVENILE INTAKE AND ASSESSMENT CENTER**  
2121 KAEN ROAD | OREGON CITY, OR 97045

June 5, 2014

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval for Filing of Grant Application  
Edward Bryne Memorial Justice Assistance Grant  
2014 Local Solicitation

<b>Purpose/Outcomes</b>	The Clackamas County Juvenile Department (CCJD) is submitting a grant application for the Edward Bryne Memorial Justice Assistance Grant (JAG) Program 2014 Local Solicitation to continue to expand cognitive skills groups in all communities of this county.
<b>Dollar Amount and Fiscal Impact</b>	\$29,550. There are no general funds required as a match.
<b>Funding Source</b>	Bureau of Justice – Edward Bryne Memorial Fund
<b>Safety Impact</b>	
<b>Duration</b>	October 1, 2013 through September 30, 2017
<b>Previous Board Action</b>	
<b>Contact Person</b>	Ellen Crawford, Director – Juvenile Department – 503-655-8342 ext 3171
<b>Contract No.</b>	

**BACKGROUND:**

A goal of CCJD is to involve youth offenders in opportunities to work on positive social skill development and build transferable work and life skills in their communities. The Skills Group Program provides group facilitation of cognitive and social skills development for the youth of Clackamas County and is dedicated to providing facilitated group learning opportunities which focus on expanding the competencies of the youth the Department serves. Skills Groups offered in schools and community organizations increases access to Skills Groups in all areas of the County. This grant will remove transportation barriers, provides preventative services for at-risk youth, connects youth with pro-social adults and their communities, and, as a result, reduces recidivism.

This grant application requires that the application be available for public review and comment for 30 days prior to awarding the funds.

**RECOMMENDATION:**

Staff requests that this application be available for public review and comments for 30 days.  
Staff recommends Board approval for filing this application and further recommends delegating authority to sign the application to the Juvenile Department Director.

Respectfully submitted,

A handwritten signature in black ink that reads "Ellen F. Crawford". The signature is written in a cursive style with a large initial "E".

Ellen Crawford, Director  
Juvenile Department

For more information on this issue or copies of attachments, please contact Crystal Wright at 503-655-8342 ext 7112.

## **Attachment 1 Program Abstract**

Applicant: Clackamas County Juvenile Department

Title of Project: Enhancement of Cognitive Behavioral Skills Intervention Services at the Community Based Prevention Site for identified at-risk youth.

### Goals of Project:

- Provide coordinated service delivery to at risk youth.
- Reduce risk factors and increase protective factors by providing evidence based interventions.
- Intervention will include assessment, education and/or cognitive behavioral skills development of youth identified with two or more risk factors as identified by the Juvenile Crime Prevention Screening Tool
- Reduce recidivism of those youth completing program services.

### Description of Strategies:

Enhance evidence-based cognitive behavioral skill intervention curriculums provided at the Juvenile Department and within existing Community-School Based Prevention Sites in Clackamas County. Evidence-based curriculum options could include Aggression Replacement Training, Boys Council or Girls Circle. Services will target youth who are at risk for delinquency behavior or at risk to reoffend. The proposed service enhancement would provide evidence-based cognitive skill curriculums through hiring a .47 FTE facilitator. These services will be coordinated with local partners to create maximum community collaborations and develop long term relationships that create program sustainability. The site will be located in the youth's community and will be available for follow-up or additional services as necessary.

The top five project identifiers include: Community-based programs; Crime Prevention; Education; Peer Counseling; Prevention-Delinquency.

The proposed program is replicating a model used extensively in Clackamas County among public and private agencies who work with youth. Strong collaborations and networking currently exist reducing barriers for service implementation.

## Attach 2

### Bureau of Justice Assistance Justice Assistance Grant 2014

#### **Program Narrative: Enhancement of evidenced-based cognitive skills groups to Community-School Prevention sites and at the Clackamas County Juvenile Department.**

The Clackamas County Juvenile Department (CCJD) is submitting a grant application for the Edward Bryne Memorial Justice Assistance Grant (JAG) Program 2014 Local Solicitation to continue to expand evidence-based (or promising practices) cognitive skills groups in all communities of this county. This grant application will allow CCJD to continue the position of the part-time (17.5 hours per week) Skills Group Facilitator position that was funded by a Bureau of Justice Assistance (BJA) Justice Assistance Grant (JAG) received in 2011. Since having this part-time position, the number of skills groups CCJD has been able to offer for youth has grown exponentially. The position was first filled in March of 2012 and since then the part-time facilitator has facilitated 49 skills groups averaging seven youth per group (a total of nearly 345 youth served).

In 2012 the number of youth involved in the juvenile system that completed skills groups was 172. In 2013 that number grew to 189 youth in the juvenile system plus an additional 91 at-risk youth in schools who were not in the juvenile system. There are 224 youth currently enrolled in the school and community skills groups in addition to 217 participants enrolled in 31 skills groups facilitated by CCJD. The large increase in numbers is due to the fact that the Department has been very successful implementing skills groups in the middle and high schools by training teachers and other staff to facilitate these groups. This program growth would not have been possible without the part-time staff position funded by BJA JAG funds.

In the upcoming 2014-2015 school year, three of the schools will sustain groups without the assistance of a CCJD staff member thus leaving room to start skills groups in at least three new locations. With the continuation of funding for the part-time Skills Group Facilitator, CCJD will be able to establish skills groups in at least three new Clackamas County schools. The Skills Group Program Coordinator has started conversations with targeted schools and plans to establish new groups in those schools with the continued support of a part-time facilitator on board.

The model of providing Skills Groups in the schools is both sustainable and efficient. CCJD has hosted trainings where at least 23 school staff members have been trained and are now actively facilitating groups in their schools. There is also one volunteer who facilitates skills groups. Training school teachers, counselors, non-profit staff, and volunteers to run groups, uses a multi-agency approach to provide these needed services to many more youth than CCJD could provide given limited staff resources. In addition, providing skills groups in the schools provides a community-based option for youth in the CCJD system thus removing the need for transportation to CCJD for skills groups. Teachers and counselors have reported satisfaction in facilitating skills groups as it gives them an opportunity to establish relationships with youth in their schools, which results in longer term relationships with supportive adults. This resource also provides youth an intervention preventing them from escalating in to the juvenile justice system.

Another goal to the expansion of the Skills Groups Program is to address risk factors and create protective factors that will reduce the rate of recidivism in our county. This approach supports best practices in juvenile justice allowing a targeted case management approach to reduce risk and increase protective factors. The intention of the program and part-time position is to create a sustainable intervention strategy that schools and other community organizations can adopt to improve youth skills, improve behavior, and increase school attachment and attendance for youth at-risk of criminal behavior.

Cognitive skills groups facilitated with evidence-based programming (or promising practices) are a primary component of any intervention strategy when working with at-risk youth. This identified intervention provides an enhancement of services administered within middle and high schools, as well as community organizations. The grant would allow us to continue to expand cognitive behavioral skill groups to serve all areas of the County.

Transportation is a major barrier for youth living around the County to participate in groups offered at CCJD. Clackamas County is the third largest county in Oregon covering 1868.17 square miles. There are approximately 375,992 residents of Clackamas County (U.S. Census, 2010 estimates), 23.3% of which are under the age of 18. The county has large urban areas that provide good access to intervention services and large rural areas that are geographically disconnected with few or no service options. Currently, 25% of the juvenile justice population served by the department lives 20 to 50 miles from the Juvenile Department where many skills groups are offered. To continue expansion of this intervention, the CCJD would maintain the part-time facilitator trained in evidence-based and promising practices cognitive skill development curriculums to continue to support groups and schools in the County.

Cognitive skills curriculum creates early identification and intervention by increasing protective factors and developing pro-social skills for identified at-risk youth. The Juvenile Crime Prevention Screening Tool (JCP) is used to select youth with two or more risk factors which identifies them at-risk of committing crimes. The JCP screening tool is a validated and reliable screening tool used in the State of Oregon by all County Juvenile Departments. The intervention includes the risk assessment, education and individual and/or group skill development for identified youth.

A summary of risk assessment data in 2013 demonstrated the 76.8% of youth were assessed as having behavioral issues as their primary risk factor; 66.6% of youth had negative peer and other relationships as their primary risk factor. The issues contributing to these risk factors include anti-social attitudes, poor problem solving, disruptive behavior at school and no participation in extracurricular activities. Cognitive skill group offerings directly impact these risk factors. The skills groups have shown to: improve academic success (measured by school attendance); improve problem-solving and coping skills; improve the value of having a supportive relationship with an adult; increase knowledge of how to avoid acting-out behaviors; decrease thinking barriers; and improve communication skills.

Performance measures for this grant will include: the number of youth receiving service; number of program participants who complete programming; the number of defined skills groups being offered; and the number of individuals trained to facilitate groups. Risk reduction will be measured by the JCP Assessment Tool and individual case management plans. The impact of these groups is measured by pre- and post-surveys. Program outcomes for successful completion of service will be measured by program or activity attendance. Outputs would be documented by the number of youth involved in services and the number of successful completions of prevention/ program services.

## DESCRIPTION OF THE SKILLS GROUP PROGRAM

A goal of CCJD is to involve youth offenders in opportunities to work on positive social skill development and build transferable work and life skills in their communities. The Skills Group Program provides group facilitation of cognitive and social skills development for the youth of Clackamas County and is dedicated to providing facilitated group learning opportunities which focus on expanding the competencies of the youth the Department serves. By having eight different curricula (several of which are evidence-based or promising practices), the Skills Group Program is able to direct youth into group learning scenarios which specifically target identified Risk and Protective factors. Skills Groups are committed to:

- using evidence-based (or promising practices) principles in all group settings;
- assisting youth in understanding the human impacts of their actions;
- providing youth with skills that will assist them in becoming contributing community members;
- providing opportunities for youth to meaningfully connect to their communities; and
- addressing Risk and Protective Factors in youth to minimize recidivism rates.

In the summer of 2010 the Skills Group Coordinator started exploring the possibility of partnering with schools in the rural areas of the county to provide skills groups to at-risk youth students, not only those already in the juvenile justice system but those at risk of dropping out of school, lacking school attachment, and/ or becoming involved with the justice system.

The Skills Group Program Coordinator and the part-time facilitator spent most of the 2010-2011 school year identifying possible schools and making connections in these schools. In the 2011-2012 school year they began targeting PreventNet sites at schools. (PreventNet was created to mirror an evidence-based ESSI model identified by OJDDP.) PreventNet is a coalition of social service agencies that are working together to create, enhance, and sustain a seamless system of care, advocacy and supports for the well-being of children, youth, and families in Clackamas County. By the 2011-2012 school year there were skills groups implemented in three middle schools. Now skills groups exist in 14 schools and one city library offering a total of 28 skills groups.

Maintaining the fidelity of the group curricula and processes from one group to another is a priority. Each school partner or agency must sign an Agreement (Memorandum of Understanding (MOU)) which outlines requirements that will maintain the fidelity of skills groups from one school to another.

Outlined in this Agreement are:

- An evaluation process for partners,
- The commitment of support from the CCJD and the commitment expected of the partner schools,
- Expectations of communications between partners and the CCJD,
- The required Skills Group Facilitator Training.

Each school is also provided with:

- Information about the Skills Group Program and the specific groups possible
- Curriculum for the group(s) to be offered
- The MOU
- A Group Facilitator Reminder List

- Fidelity Checklists for each specific group offered
- The Pre- and Post-Survey tools
- An Attendance tool
- Partnering agency feedback form

### **Relevant Skills Group Curricula**

**Aggression Replacement Training (ART):** Aggression Replacement Training is an evidenced-based curriculum designed to provide youth with skills on what to do in anger producing situations, while making the escalation of anger a less frequent occurrence. In ART, youth will practice specific skills, discuss moral reasoning scenarios and respond by recognizing their physical and emotional reactions in conflict situations.

**The following Risk Domains and Protective Factors are addressed in the ART curriculum and logic model:**

#### **Risk Domains & Factors**

Behavior

Expected outcomes: 1. Youth will report an increase in competency in the use of ART social skills techniques and report value in the skills they learned, 2. Youth's knowledge on how to avoid acting-out behavior will increase, 3. 70% of participating youth who complete the skills group will not receive a second charge involving aggressive behavior.

**Girls Circle & Boys Council:** Girls Circle strives to encourage girls to hold on to their voices and stay true to themselves. It enhances judgment and critical thinking skills for wise and healthy choices and counters trends towards self-doubt while improving self-esteem. The mission of the Boys Council is to offer adolescent young men a solid pathway toward healthy identity development, recognizing their strengths and capacities, challenging stereotypes, questioning unsafe attitudes and encouraging solidarity through personal and collective responsibility.

**The following Risk Domains and Protective Factors are addressed in the Girls Circle and Boys Council curricula and logic models:**

#### **Risk Domains & Factors**

Attitudes, Values & Beliefs

Behavior

#### **Protective Factors**

- Significant school attachment.
- Has friends who are academic achievers.
- There is an adult in youth's life (other than parent) she/he can talk to.
- Involved in constructive extracurricular activities (sports, clubs, music, theater, arts, etc.).

Expected outcomes: 1. Youth empathy awareness will be enhanced, 2. Youth optimism about the future will increase, 3. Youth recognize the value of a relationship with a pro-social peer, 4. Youth problem-solving and coping skills will improve, 5. Youth will be, or desire to be, positively associated with a community organization, and 6. The value of a supportive relationship with an adult will increase.



**Individual and Community Empathy (ICE):** The mission of ICE is to provide youth with an opportunity to build empathy and community awareness in a positive way, while taking responsibility for their behaviors and looking at their effect on our community. ICE is designed to help youth develop competencies that will enable them to be more successful community members.

**The following Risk Domains and Protective Factors are addressed in the ICE curriculum and logic model:**

Risk Domains & Factors

Attitudes, Values and Beliefs

Protective Factors

- There is an adult in youth's life (other than parent) she/he can talk to.
- Involved in constructive extracurricular activities (sports, clubs, music, theater, arts, etc.).

Expected outcomes: 1. Youth empathy awareness will be enhanced, 2. Youth optimism about the future will increase, 3. Youth will be, or desire to be, positively associated with a community organization, and 4. The value of a supportive relationship with an adult will increase.

**TruThought: *Charting a New Course*:** TruThought addresses numerous thinking barriers and tactics which interfere with the decision making process. Allowing youth to practice identifying these barriers and identify ways to intervene prior to trouble will contribute to more successful outcomes.

**The following Risk Domains and Protective Factors are addressed in the TruThought curriculum and logic model:**

Risk Domains & Factors

Attitudes, Values and Beliefs

Behavior

School

Protective Factors

- There is an adult in youth's life (other than parent) she/he can talk to.
- Communicates effectively with family members (both verbal and nonverbal shared communication with healthy relationship boundaries).

Expected outcomes: 1. A decrease in thinking barrier patterns, 2. Youth empathy awareness will be enhanced, 3. Youth optimism about the future will increase, 4. Youth problem-solving and coping skills will improve, 5. Youth communication skills will improve.

**Life Skills/Independent Living Program (ILP):** The Life Skills Program is designed to encourage youth to understand and access the resources and information Clackamas County has to offer. The goal of this program is to equip youth with the basic knowledge they will need to successfully live on their own, plan for their future, and make a positive contribution to the community.

**The following Risk Domains and Protective Factors are addressed in the Life Skills curriculum and logic model:**

Risk Domains & Factors

Attitudes, Values and Beliefs

Expected outcomes: 1. Youth empathy awareness will be enhanced, 2. Youth optimism about the future will increase, 3. Youth will endorse pro-social attitudes, values and beliefs, 4. Youth accept responsibility for their behavior.

## **PROBLEM/NEED FOR THE PROGRAM**

Youth who have become (or are at risk of becoming) involved in the juvenile justice system face significant barriers to obtaining positive life skills, education, and employment. These youth have more and greater risk factors (such as school dropout, using alcohol and drugs, lack of connections with positive peers and community members, and experiencing significant family conflict) than the general youth population... increasing skills improves classroom behavior and school attachment, and reduces the likelihood of involvement in the juvenile justice system.

CCJD strives to keep communities safe through restorative services for youth offenders, victims, and communities. The Department targets interventions in order to hold youth meaningfully accountable and teach them new skills, while at the same time addressing the harm done to victims and community.

Central to our continued success is our engagement with community partners. CCJD collaborates with community partners to assist in positive youth development and strengthening families. These partnerships empower communities to have a role in holding their youth accountable, expand the opportunities for at-risk youth to feel connected with their local communities, while also giving youth positive life and social skills. Youth also participate in meaningful service-learning work projects while earning stipends, or volunteer hours to repay victims and communities.

Skills Groups offered in schools and community organizations increases access to Skills Groups in all areas of the County. The program removes transportation barriers, provides preventative services for at-risk youth, connects youth with pro-social adults and their communities, and, as a result, reduces recidivism.