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June 30, 2022

Board of County Commissioners
 Clackamas County

Members of the Board:

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

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

Project Background

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

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

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

The Phase I Funding Agreement specifies those costs that will be eligible for reimbursement and establishes benchmarks that define the successful completion of Phase I of the project. The date to complete the benchmarks for Phase 1 was originally July 1, 2019. Since that time, the parties recognized that it was not going to be possible for the county to fulfill its obligations set out in the agreement within that timeframe and have agreed to extend the agreement three separate times to July 1, 2022.

Since the original adoption of the funding agreements in 2019, the County has authorized, and the Oregon Judicial Department has endorsed, the use of a public-private partnership to deliver the project. As a result of this change, both the County and State recognize that certain aspects of their existing agreements needed to be amended in order to proceed. For purposes of this amendment, the parties agree that the benchmarks should be revised to acknowledge certain work that has already been completed, and to put off certain other benchmarks until Phase II of the project. These revisions will facilitate the close out of Phase I of the project and will consolidate benchmarks in Phase II that all fall under the scope of work that will be completed by the County and the project company as part of the design and construction phase of the project.

RECOMMENDATION

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

Sincerely,

Nate Boderman
Assistant County Counsel

**AMENDMENT NO. 4
CLACKAMAS COUNTY COURTHOUSE
PHASE I FUNDING AGREEMENT**

This Amendment No. 4 (“Amendment”) to the Clackamas County Courthouse Funding Agreement – Phase I is made as of the 30th day of June, 2022 (the “Amendment Effective Date”) by and among the State of Oregon, acting by and through its Department of Administrative Services (“DAS”) and the Oregon Judicial Department (“OJD”) (together referred to as the “State”), and Clackamas County, Oregon (“County”). OJD, DAS and County are each referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. On February 28, 2019, the Parties entered into the Clackamas County Courthouse Funding Agreement – Phase I (“Original Agreement”).
- B. On June 27, 2019, the Parties entered into Amendment No. 1 to the Original Agreement to extend the Phase Completion Date.
- C. On June 30, 2020, the Parties entered into Amendment No. 2 to the Original Agreement to extend the Phase Completion Date and revise the requirements related to State Funds for Phase I during the extended period.
- D. On June 30, 2021, the Parties entered into Amendment No. 3 to the Original Agreement to extend the Phase Completion Date and revise the requirements related to State Funds for Phase I during the extended period. The Original Agreement, Amendment No. 1, Amendment No. 2, and Amendment No. 3 are collectively referred to as the “Phase I Agreement.”
- E. The Parties now desire to amend subsection (c) of Paragraph 11, Benchmarks, of the Phase I Agreement.

AGREEMENT

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

1. Subsection (c) of Paragraph 11, Benchmarks, of the Phase I Agreement is deleted in its entirety and replaced with the following:

“(c) The County shall be deemed to have met the Benchmarks if the State, in its reasonable discretion, approves in writing:

 - Complete the Request for Proposal (RFP) for the P3 Project Company for architectural, engineering (A/E), and other services for Phase II.
 - Obtain a report from a title insurance company that shows the County owns fee simple title to the Project Parcel.”
2. Except as provided in this Amendment, all other terms and conditions of the Phase I Agreement are still in full force and effect.
3. This Amendment may be executed in two or more counterparts (by electronic signature, facsimile, or otherwise), each of which is an original and all of which when taken together are deemed one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.

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

The State of Oregon,

acting by and through its Department of Administrative Services (“DAS”):

Print Name: _____

Title: _____

Signature: _____

The State of Oregon,

acting by and through its Judicial Department (“OJD”):

Print Name: _____

Title: _____

Signature: _____

Approved as to Legal Sufficiency for the State:

Print Name: _____

Title: _____

Signature: _____

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

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

Print Name: _____

Title: _____

Signature: _____

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

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

Print Name: _____

Title: _____

Signature: _____

Clackamas County, Oregon (“County”):

Print Name: _____

Title: _____

Signature: _____

Reviewed for the County:

_____, COUNTY ATTORNEY
FOR CLACKAMAS COUNTY, OREGON

By: _____
_____, Assistant County Counsel