



July 16, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement between
Clackamas Education Service District and Clackamas County
for Internet Service and Data Backup Service**

Purpose/Outcomes	Continued provision of Internet service to Library District member libraries.
Dollar Amount and Fiscal Impact	Funds budgeted at \$13,400 annually for a total not to exceed \$40,200 for the three years of the IGA.
Funding Source	General fund (BCS Library Support Services)
Duration	Upon execution through June 30, 2023
Strategic Plan Alignment	The purpose of this IGA aligns with the Key Initiative of “making high speed internet available throughout the County.” The Internet service provided by this agreement provides high speed Internet to library users and residents across the County, at all 13 public libraries.
Previous Board Action	IGA dated 6/8/2017 between Clackamas Educational Service District (CESD) and Clackamas County for Data Center Hosting and computing Services.
Counsel Review	This intergovernmental agreement has been reviewed and approved by County Counsel on 6/25/2020 (AN).
Contact Person	Kathryn Kohl, Library Network Manager, 503.723.4889 Laura Zentner, BCS Director, 503.742.4351

BACKGROUND:

Clackamas County is responsible for the provision of Internet service to Library District member libraries. Since 2012, Clackamas County has contracted with the Clackamas Educational Service District (CESD) to provide these services. CESD also provides optional data backup services.

Business and Community Services wishes to continue obtaining Internet services from CESD via an intergovernmental agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff recommends the Board of County Commissioners of Clackamas County approve the Intergovernmental Agreement between Clackamas Education Service District and Clackamas

County for Data Center Hosting and Computing Services, and authorize Laura Zentner, BCS Director, or Sarah Eckman, BCS Deputy Director, to sign the agreement.

Respectfully submitted,

Laura Zentner

Laura Zentner, Director
Business and Community Services

ATTACHMENTS:

- Intergovernmental Agreement between Clackamas Education Service District and Clackamas County for Internet Service.



STANDARD INTERGOVERNMENTAL AGREEMENT (IGA)
Library Information Network of Clackamas County – Internet Service

This agreement (“Agreement”) is between **CLACKAMAS EDUCATION SERVICE DISTRICT** (“CESD”) and **CLACKAMAS COUNTY** on behalf of its Library Information Network (“COUNTY”), (collectively, the “Parties”).

Service Description

The Parties agree as follows:

Term of Agreement. The initial Agreement term will be **July 1, 2020** through **June 30, 2023**, when the Scope of Work concludes, or one or both Parties terminate this Agreement, whichever occurs first. If no termination notice is received by the end of the Agreement term date, then this contract, automatically renews for a period of one (1) year.

Scope of Work; Payment. CESD will provide services as described below. As compensation for such services, CESD will invoice the COUNTY for charges at the stated rates (Section 2) below. Charges will be invoiced **annually** for services, unless otherwise noted and payable to CESD thirty (30) days after receipt of invoice.

The **CESD** shall be responsible for the following:

- Providing services as described in SECTION II

The **COUNTY** shall be responsible for the following:

- Providing technical staff or needed equipment as needed to utilize service as described in SECTION II
-

STANDARD TERMS AND CONDITIONS

1. **Subcontracts and Assignment.** Neither party will assign any part of the Agreement without the prior written approval of the other party, and any purported assignment without written approval will be void. Despite this prohibition on assignment, CESD may subcontract, in whole or in part, its performance under this Agreement.
2. **Termination.** This Agreement may be terminated (a) by mutual agreement at any time or (b) by either party upon not less than **ninety (90)** calendar days’ advance written notice. Upon termination, CITY agrees to pay CESD any expenses directly attributable to the termination.
3. **Access to Records.** Each party will have access to the books, documents and other records of the other which are related to this Agreement for the purpose of examination, copying and audit, unless otherwise limited by law.
4. **Compliance with Applicable Law.** Each party will comply with all applicable laws, statutes, codes, ordinances, rules, regulations, and lawful orders.
5. **COUNTY’s Indemnification.** Subject to the limits of the Oregon Constitution and the Oregon Tort Claim Act, COUNTY agrees to indemnify, hold harmless, and reimburse, CESD, and its officers, agents, and employees, from, for, and against all claims, suits, actions, damages, and expenses, including, but not limited to, attorneys’ fees related to or arising out of this Agreement, but only to the extent caused by the negligence, breach of contract, breach of warranty (express or implied), or other improper conduct of COUNTY, its employees, subconsultants, or anyone for whose acts COUNTY is responsible.

Lead, serve and innovate for learning.

(503) 675-4000

clackesd.org

13455 SE 97th Avenue, Clackamas, OR 97015

6. **CESD's Indemnification.** CESD agrees to indemnify, hold harmless, and reimburse, COUNTY, and its officers, agents, and employees, from, for, and against all claims, suits, actions, damages, and expenses, including, but not limited to, attorneys' fees related to or arising out of this Agreement, but only to the extent caused by the negligence, breach of contract, breach of warranty (express or implied), or other improper conduct of CESD, its employees, subconsultants, or anyone for whose acts CESD is responsible.
7. **Force Majeure.** In no event shall a party have any claim against the other party for any failure of performance by such party, if such failure of performance is caused by or the result solely of causes beyond the reasonable control of such other party, including, but not limited to: damage caused by a third party, electrical storms, fire, heavy rain, heavy snow, other acts of God, or other natural catastrophe; laws, orders, rules, regulations, directions, or action of governmental authorities, or of any civil or military authority, national emergency, or lockout, labor shortage, or materials shortage.
8. **Governing Law; Arbitration.** The provisions of this Agreement will be construed in accordance with the laws of the State of Oregon. All claims, disputes and other matters in question between CESD and CITY arising out of or relating to this Agreement will be subject to binding arbitration through Arbitration Service of Portland, Inc..
9. **Entire Contract.** This Agreement constitutes the entire, legally-binding contract between the Parties regarding its subject matter. This Agreement supersedes any and all prior or contemporaneous understandings, agreements, or representations, whether oral or written, not specified herein.
10. **Waiver; Severability.** The failure of either party to enforce any provision of this Agreement will not constitute a waiver by that party of that or any other provision of this Agreement. If any term or provision of this Agreement is determined to be illegal, in conflict with any law, void, or otherwise unenforceable, and if the essential terms and provisions of this Agreement remain unaffected, then the validity of the remaining terms and provisions will not be affected and the offending provision will be given the fullest meaning and effect allowed by law.
11. **Modification.** No waiver, consent, modification, or change of terms of this Agreement will bind either party unless in writing and signed by both Parties. Such waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given.
12. **Notices.** Any notice or other communication regarding this Agreement will be served in one of the following manners: (1) personal delivery, (2) facsimile transmission, (3) electronic mail or (4) delivery by courier or messenger service that maintains records of its deliveries.
13. **Signatures.** This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute one and the same instrument. A facsimile, PDF or other electronic signature will be considered an original. The individuals signing this Agreement certify that they are authorized to execute this Agreement on behalf of CESD and CITY, respectively.
14. **COUNTY's Waiver of Consequential Damages.** County agrees that neither CESD nor any of its officers, directors, employees, or agents shall be liable for any indirect, punitive, consequential, or exemplary damages of any nature, including, but not limited to, fines, penalties, or lost profits, whether said claim is based upon contract, warranty, tort (including negligence and strict liability), indemnity, or any other theory of law.
15. **CESD's Waiver of Consequential Damages.** CESD agrees that neither CITY nor any of its officers, directors, employees, or agents shall be liable for any indirect, punitive, consequential, or exemplary damages of any nature, including, but not limited to, fines, penalties, or lost profits, whether said claim is based upon contract, warranty, tort (including negligence and strict liability), indemnity, or any other theory of law.

16. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

17. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

I have read this contract, including all exhibits and attachments, if applicable. I certify that I have the authority to sign and enter into this contract and agree to be bound by its terms.

SIGNATURES

CLACKAMAS EDUCATION SERVICE DISTRICT CLACKAMAS COUNTY

BY: 
CESD Superintendent

BY: _____
Authorized Signature

Date: 07/07/2020

Date: _____

SECTION II

Service Description and Fees
LINCC – Internet & Data Center Service

Service Description:

CESD agrees to provide to COUNTY Internet service of no less than 1000 megabits per second (Mbs) with bursting up to the limit of the physical or logical connection. Under the condition and subject to the terms of this agreement and provided there is no negative impact to the overall health of CESD’s network.

CESD also agrees to provide to COUNTY disk-to-disk backup service with a client access web portal for self restores and deduplication & compression prior to storage.

Fee:

COUNTY agrees to pay CESD the fees and rates listed below:

Internet Usage Fee Schedule*:

(Per month, billed annually)

<u>Fee (per Mb/Month)</u>	<u>Monthly Total</u>	<u>Annual Total</u>
	\$700	\$8,400.00

*Usage determined by 95th Percentile average monthly usage collected by Cacti and audited by CESD Network staff.

Disk-to-disk Service Fee Schedule*:

(Per month, billed annually)

<u>Fee (per GB stored)</u>	<u>Monthly Total</u>	<u>Annual Total**</u>
\$.20	Varies	Varies

**Annual total will not exceed \$5,000 unless there is a mutual amendment to this agreement.



July 16, 2020

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of Amendment #3 to the Contract with Total Golf Management Services, LLC for Management Services for the Operation of Stone Creek Golf Course

Purpose/Outcomes	The purpose is to extend the term of the current Contract for an additional three months to allow the parties to negotiate a potential renewal of the Contract for an additional five-year term.
Dollar Amount and Fiscal Impact	No fiscal impact as contract automatically extends for 180 days following June 30, 2020 if parties have not completed negotiations for a five-year extension of the agreement. County Counsel has advised that signing a limited extension for 90 days would be preferable to relying on the 180 day clause.
Funding Source	Golf course sales and fees.
Duration	The contract was originally executed on January 13, 2005 and as previously amended, expires on June 30, 2020. By execution of this Amendment #3, the parties agree to extend the term of the Contract for an additional three months to allow the parties to negotiate a potential renewal of the Contract for an additional five-year term.
Strategic Plan Alignment	<ul style="list-style-type: none"> • This agreement supports the BCC goal of growing a vibrant economy by enhancing our local community with a sought-after municipal golf course. • This agreement also supports the BCS Economic Development goal of providing services to policymakers, community partners and businesses so they can locate or expand their business in Clackamas County by maintaining public features that attract businesses and residents to Clackamas County.
Previous Board Action	<ul style="list-style-type: none"> • Initial contract signed on January 13, 2005, and continued for an initial period of five years with the opportunity for mutually agreeable five year extensions. • Amendment #1 was signed by former BCS Director Dan Zinzer on behalf of the Board of County Commissioners (BCC) on June 30, 2009 and extended the term from January 1, 2010 through December 31, 2014. • Amendment #2 extending the contract term was signed by BCC Board Chair John Ludlow on December 18, 2014, extending the term from January 1, 2015 through June 30, 2020.
Counsel Review	This amendment #3 was reviewed and approved as to form by County Counsel on June 29, 2020. ARN
Contact Person	Laura Zentner, BCS Director, 503.742.4351 Sarah Eckman, BCS Deputy Director, 503.742.4303

BACKGROUND:

Clackamas County has had a contract with Total Golf Management Services, LLC (TGMS) for management services for the operation of Stone Creek Golf Club since 2005. TGMS has done an exceptional job of managing the operations of the golf course and associated facilities.

Per the terms set forth in the original agreement, the agreement has had two five-year extensions, and it is the intention of Business and Community Services to extend the contract for one more five-year term.

Due to COVID-19, BCS has been delayed in negotiating a contract renewal with TGMS prior to June 30, 2020. Fortunately, the contract does automatically continue for 180 days following June 30, 2020 in the event negotiations are not complete. However, County Counsel has advised that signing a limited extension for 90 days would be preferable to relying on the 180 day clause.

BCS is asking for Board approval for a short-term, three month, extension of the current contract to allow time to negotiate a five-year extension with TGMS.

RECOMMENDATION:

Staff respectfully recommends the Board approve the attached Amendment #3 to the contract with Total Golf Management Services LLC for Management Services for the Operation of Stone Creek Golf Course.

ATTACHMENTS:

- Stone Creek Contract Amendment #3
- Stone Creek – TGM – Management of Stone Creek Golf Club – Original
- Stone Creek – TGM – Management Services for the Operation of Stone Creek Golf Course – Amendment #1
- Stone Creek – TGM – Management Services for the Operation of Stone Creek Golf Course – Amendment #2

Respectfully submitted,



Laura Zentner, CPA
Director, Business & Community Services

**AMENDMENT #3
TO THE CONTRACT DOCUMENTS WITH TOTAL GOLF MANAGEMENT SERVICES, LLC
FOR THE MANAGEMENT SERVICES FOR THE OPERATION OF STONE CREEK GOLF
COURSE**

This Amendment #3 is entered into between **Total Golf Management Services, LLC** ("TGMS") and Clackamas County ("County") and shall become part of the Contract documents entered into between both parties on **January 13, 2005** ("Contract"), as subsequently amended.

The Purpose of this Amendment #3 is to make the following changes to the Contract:

1. **ARTICLE 2, Section 2.7. Term of Agreement** is hereby amended as follows:

The Contract, as previously amended, expires on June 30, 2020. By execution of this Amendment #3, the parties agree to extend the term of the Contract for an additional three months to allow the parties to negotiate a potential renewal of the Contract for an additional five-year term. The Contract termination date is hereby changed to **September 30, 2020**. Any potential future extension of the Contract shall only be effective upon execution of a written amendment on terms acceptable to both parties.

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #3, effective upon the date of the last signature below.

Total Golf Management Services, LLC

Clackamas County

Gordon B Tolbert 7.8.20
Authorized Signature Date

, Date

Gordon B Tolbert
Printed Name

Date

MANAGEMENT SERVICES FOR THE OPERATION OF STONE CREEK GOLF CLUB

This Agreement ("Agreement") is by and between Clackamas County, a political subdivision of the State of Oregon (the "County"), and Total Golf Management Services, LLC, an Oregon limited liability company ("TGMS").

Recitals

A. The County owns certain real property located in Clackamas County, Oregon, and more particularly described as Stone Creek Golf Club (an 18 hole golf course) and golf related amenities (collectively, the "Golf Course").

B. The County desires to engage TGMS to provide consulting services regarding the operation and maintenance of the Golf Course. The County further desires to engage TGMS as the on site operator of the Golf Course for the purpose of operating and maintaining the Golf Course and the facilities and equipment associated therewith.

C. TGMS represents that they are an experienced professional management company, knowledgeable in the management, operation and maintenance of golf courses.

NOW, THEREFORE, in consideration of the foregoing recitals and representations, and in consideration of the mutual promises herein set forth and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1 ARTICLE I: MANAGEMENT

This Article I shall become effective upon the Commencement Date defined in Article II, Section 2.5 of this Agreement.

1.1 Operation of the Golf Course

1.1.1 Services to Be Performed by TGMS/County Control. Subject to the terms of this Agreement, the County directs TGMS as an agent of the County, on a fee for services basis, to direct, supervise, and operate the Golf Course including the playing and practice facilities, the clubhouse, restaurant, and all other related facilities. TGMS will employ all personnel necessary for these operations, and perform all other activities necessary to operate and maintain the Golf Course. TGMS agrees to operate and maintain the Golf Course pursuant to this Agreement and for County's account and shall determine the programs and policies to be followed in connection therewith. Such policies and programs shall be consistent with the standards set forth in Article I, Section 1.1.3, and shall be formulated in consultation with County and subject to County approval. After

granting such approval, County agrees to delegate to TGMS implementation of the approved programs and policies, subject to County review and oversight.

1.1.2 Preparation for Commercial Operation. Promptly upon execution of this Agreement, TGMS will prepare the Golf Course for commercial operation and fully equip the Golf Course with a reasonable stock of equipment, merchandise, supplies, spare parts and consumables necessary to operate the Golf Course in accordance with this Agreement.

1.1.3 Standards for Performance of Services. TGMS will:

1.1.3.1 Operate and maintain the Golf Course in a clean, safe, efficient and Environmentally Acceptable manner and in accordance with Prudent Industry Practices;

(i) "Environmentally Acceptable" means complying with all applicable federal, state and local laws, ordinances and regulations relating to Hazardous Substances.

(ii) "Prudent Industry Practices" means the practices, methods, level of care and equipment, as changed from time to time, that are commonly used to operate and maintain safely and consistently with applicable statutes, regulations and codes golf course developments of approximately the same size, quality and type as the Golf Course.

(iii) "Hazardous Substance" means:

(a) any material defined as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.) and the rules and regulations promulgated thereunder, as each may be amended from time to time;

(b) any material which by reason of its composition or characteristics is a hazardous waste as defined in the Resource Conservation and Recovery Act (42 U. S.C. § 6901 et. seq.) and the rules and regulations promulgated thereunder, as each may be amended from time to time;

(c) any pesticide, insecticide, fungicide, rodenticide or other material or substance used for preventing, destroying, repelling or mitigating any pest, including any insect, rodent, nematode, fungus or weed;

(d) petroleum or any petroleum byproduct; and

(e) any other material, substance or waste described or defined as a “pollutant” or a “contaminant” or described as “hazardous”, “toxic”, or “radioactive” or by words of similar import under any applicable federal, state or local laws, rules or regulations, as each may be amended from time to time.

1.1.3.2 Perform the services to be provided hereunder in all material respects in a prudent and efficient manner and in accordance with:

- (i) all manufacturer’s warranties, the Operation and Maintenance Procedure Manuals and the Administrative Procedures Manual;
- (ii) all applicable rules, laws, regulations, codes, permits, licenses and standards;
- (iii) the Project Agreements; and
- (iv) this Agreement;

1.1.3.3 Use diligent efforts to perform in accordance with the applicable Annual Operating Plan;

1.1.3.4 Except as otherwise specified in this Agreement, obtain all licenses and permits required to allow TGMS to do business in the jurisdictions where its services are to be performed;

1.1.3.5 Use generally accepted practices and technologies with the object of (i) optimizing Golf Course revenues, (ii) optimizing the useful life of the Golf Course and equipment at the Golf Course, and (iii) minimizing the costs of operating the Golf Course; and

1.1.3.6 Devote such time and personnel as is reasonably necessary or advisable to perform its duties under this Agreement.

1.1.4 Representatives. The County designates the Transportation Engineering, Park & Property Management Manager as the representative who will act as principal operating liaison between County and TGMS. TGMS shall also designate in writing an officer or representative of TGMS, who will have responsibility for supervising the Golf Course and implementing this Agreement on behalf of TGMS. All matters and questions pertinent to this Agreement and the operation of the Golf Course shall be transmitted through the respective designees.

1.1.5 TGMS’s Responsibilities. County grants authority to perform and TGMS accepts responsibility to perform the following tasks:

1.1.5.1 Hiring. TGMS will employ, pay, supervise, and discharge all employees

and personnel necessary for the operation of the Golf Course. The County will reimburse TGMS for all reasonable payroll and benefit expenses and the payroll and related taxes of the employees hired by TGMS for the operation of the Golf Course. All employees hired by TGMS shall be employees of TGMS and not employees of the County.

1.1.5.2 Additional Benefits. TGMS may provide gratuitous food and other Golf Course use benefits consistent with industry standards and agreed upon by the County's authorized representative. The direct cost of providing these benefits shall be an operating expense of the Golf Course.

1.1.5.3 Books and Records. TGMS will maintain current, complete and accurate books, including the books of account and accounting procedures of the Golf Course, operating logs, records and reports documenting the operation and maintenance of the Golf Course, and current versions of all drawings, specifications, lists and other technical material consistent with industry standards and as required to operate and maintain the Golf Course.

1.1.5.4 Authority to Contract. Subject to the County's approval, TGMS may negotiate leases, licenses and concession agreements for the Golf Course. All such leases, licenses, or concessions will be in County's name, except as otherwise agreed by the County and TGMS or where prohibited by law, and will be executed only by officers of County or officers of TGMS. TGMS will obtain a license from the Oregon Liquor Control Commission to sell alcoholic beverages on the Golf Course.

1.1.5.5 Maintenance and Repair. With the funds available and subject to the approved budget described in Article I, Section 1.7.4, TGMS will maintain the Golf Course and all, furniture and equipment and operating supplies in good order, repair, and condition (ordinary wear and tear excepted), including without limitation, making necessary replacements, improvements, additions, and substitutions, to the end that the Golf Course shall be maintained and adequately furnished as a first-class, modern Golf Course.

1.1.5.6 Service Contracts and Utilities. TGMS will negotiate on behalf of County and in County's name, service contracts required in the ordinary course of business in operating the Golf Course, including, without limitation, contracts for electricity, gas, telephone, security agency protection, vermin extermination, housekeeping, maintenance, and other services which TGMS deems advisable and necessary. However, TGMS will not enter any contract that involves an expenditure of more than Five Thousand Dollars (\$5,000.00) in the aggregate or that is not terminable at will upon thirty (30) day's notice without County's approval.

1.1.5.7 Supervision of Purchasing. TGMS will supervise the purchase in the most economical manner of all inventories, provisions, and operating supplies, which in

the normal course of business are necessary and proper to maintain and operate the Golf Course.

1.1.5.8 Emergency Action. If an emergency occurs which affects the safety or protection of persons or endangers the Golf Course or property located at the Golf Course, TGMS shall take prompt action to attempt to prevent such threatened damage, injury or loss, and shall, as soon as practicable, notify County of the emergency. Reasonable costs incurred in such an emergency shall be operating and maintenance expenses. In considering the reasonableness of costs incurred during an emergency the parties will consider that the priorities during an emergency are the safety of the public, the safety of workers, the operation of the Golf Course in an Environmentally Acceptable manner and the continuing operation and preservation of the Golf Course, acknowledging that time may not permit the opportunity to obtain the lowest price for goods or services.

1.1.6 Subcontracting. TGMS may contract with any third party for the performance of any service work required by this Agreement, but no such contract shall relieve TGMS of its obligations to County hereunder.

1.1.7 Limitations on Authority. TGMS will not have the authority to undertake any of the following actions unless: (i) they are approved in the Annual Operating Plan, (ii) TGMS has received the prior written approval of County; or (iii) such actions are expressly authorized by this Agreement:

1.1.7.1 Disposition of Assets. The sale, lease, pledge, mortgage, conveyance, license, exchange or other transfer or disposition of any property or assets of County, including any tangible personal property acquired by TGMS under this Agreement, except for the consumption of supplies in the ordinary course of business and the replacement of equipment in the ordinary course of business.

1.1.7.2 Contracting. Making, entering into, executing, amending, waiving any rights, modifying or supplementing any oral or written contract, agreement or commitment on behalf of, binding upon, or in the name of County, or agreeing to do any of the foregoing.

1.1.7.3 Expenditures. Making any expenditure (if not provided for in the Annual Budget), unless an emergency or other event occurs which (i) may affect the safety of Persons, (ii) involves a release or threatened release of a Hazardous Substance or (iii) may endanger the full operating capacity of the Golf Course or property located at the Golf Course, in which case, TGMS may, without prior approval from County, take all reasonable actions to prevent the threatened damage, injury or loss and must promptly notify County of any such action. Reasonable costs incurred in this regard will be operating and maintenance expenses. In such an emergency, the County will not unreasonably withhold or delay approval of any necessary expenditure not provided in the Annual Budget and requested by TGMS.

1.1.7.4 Other Actions. Taking or agreeing to take any other action in material variance with the applicable Annual Operating Plan or the Annual Budget.

1.1.7.5 Lawsuits and Settlements. The settling, compromising, assigning, pledging, transferring, releasing or consenting to the same of any claim, suit, debt, demand or judgment against or due by County, TGMS on behalf of County, or submitting any such claim, dispute or controversy to arbitration, mediation or judicial process, or stipulating to a judgment, or consent to do the same. TGMS agrees that County shall retain sole control of any such claim, suit, debt or demand and any other litigation regarding the projects, except as to TGMS's individual liability.

1.1.7.6 Transactions on Behalf of Others. Engaging in any other transaction on behalf of County in contravention of this Agreement.

1.1.7.7 Governmental Licenses or Permits. Agreeing to any penalty, assessment or fine for violation of any permit.

1.2 Marketing

TGMS shall, at County's expense and subject to County's approval of an overall marketing plan, arrange for and conduct all advertising and promotion that TGMS reasonably deems necessary to maintain adequate Golf Course use levels consistent with budgeted revenue objectives.

1.3 Expenses Borne By County

1.3.1 Expenses. All expenses properly incurred by TGMS for and on behalf of County pursuant to this Agreement shall be borne by County from the operating revenue of the Golf Course or from any reserve fund the County may establish for that purpose.

1.3.2 Debts and Liabilities. All debts and liabilities of the County and all properly authorized debts arising in the course of business of the Golf Course shall be the obligation of County, and TGMS shall not be liable for any such obligations by reason of its management, supervision, and operation of the Golf Course undertaken in good faith and within the scope of this Agreement. Subject to certain limits, County shall defend, save harmless and indemnify TGMS, as an agent of the County, against tort claims or demands arising out of an alleged act or omission occurring in the performance of its duty under this Agreement, as more fully explained in Article II, Section 2.2.

1.3.3 Reimbursement for Expenses. TGMS shall be reimbursed monthly for reasonable expenses of any of its officers or employees which are incurred for travel as required for Golf Course business, and for meals, lodging, and out-of-pocket expenses incurred while on Golf Course business. TGMS will keep such expenses chargeable to the Golf Course operation at a minimum, and consistent with the approved budget.

1.3.4 Procedure for Reimbursement. County will reimburse TGMS for those expenses which are reimbursable under this Agreement subject to the funding procedures established by County.

1.4 Expenses Borne by TGMS

1.4.1 Supervisory Services. The supervisory services to be rendered by the personnel and staff of TGMS in connection with the operation of the Golf Course (exclusive of any mutually agreed upon specific projects not included in this Agreement), shall be provided by TGMS at its own expense and not charged to County.

1.4.2 Overhead. County shall not be charged with the general overhead, general administrative expense, salaries or wages of any officers, directors or employees of TGMS or any of its or their affiliated or subsidiary companies, except as otherwise specifically provided for in this Agreement.

1.5 Compliance With Laws

1.5.1 Compliance with Laws. TGMS shall ensure that the Golf Course complies with all laws, rules, regulations, requirements, orders, notices, determinations, and ordinances of any federal, state, or municipal authority relating to the operation of the Golf Course and the reasonable requirements of any insurance company covering any risk against which the Golf Course is insured.

1.5.2 County's Right to Contest. With respect to a violation of any such laws or rules, County shall have the right to contest the applicable law and to postpone compliance pending the determination of such contest, if so permitted by law, but County shall protect and indemnify TGMS from any loss, cost damage, or expense as a result of such protest.

1.6 Bank Accounts/Disbursement of Funds – Working Capital

1.6.1 TGMS Golf Account. TGMS shall establish a Golf Course operational account at the same bank or trust company at which the County Account is established. TGMS shall authorize two signatories to the TGMS Account. Funds deposited into the TGMS Account shall not be commingled with other funds of TGMS.

1.6.2 Deposit of Funds into the TGMS Golf Account. On or before the first day of each month County shall cause amounts to be disbursed from the County Account and deposited into the TGMS Account consistent with the Approved Budget and the Annual Operating Plan. Those funds shall be used for the payment of Golf Course operational expenses in the manner provided below.

1.6.3 Payment of Operating Expenses. All operating expenses, and previously

approved capital expenditures, contained in the Approved Budget will be paid from the TGMS Golf Account. Notwithstanding the preceding sentence, no payment or disbursement shall be made from the TGMS Golf Account for any expense, which, under the provisions of this Agreement requires the County's prior written approval, without receipt by TGMS of such prior written approval. Consistent with this restriction, TGMS may make payments and disbursements and reimburse itself for approved expenses incurred for operation of the Golf Course consistent with the terms of this Agreement.

1.6.4 County to Supply Working Capital. The County shall furnish funds sufficient to constitute working capital for the operation of the Golf Course. For purposes of this Agreement the term working capital shall mean an amount sufficient to pay, as they come due on a current basis, all approved accounts payable and other approved obligations for the operation of the Golf Course.

1.6.5 Deposit of Golf Course Revenue. All revenues earned from the operation of the Golf Course shall be deposited by TGMS into the County Golf Account and not into the TGMS Golf Account. In the event revenues are mistakenly deposited into the TGMS Golf Account, TGMS will immediately cause those revenues to be disbursed from the TGMS Golf Account and deposited into the County Golf Account.

1.7 Books, Records, Statements & Budgets

1.7.1 TGMS to Maintain Books of Account. TGMS shall ensure that full and adequate books of account and other records are kept reflecting the results of operations of the Golf Course on a cash basis, all in accordance with generally accepted accounting principles and as required by the provision of this Agreement. The books of account and all other records relating to, or reflecting the operations of the Golf Course, shall be reasonably available to County and its representatives at any reasonable time for examination, audit, inspection, and transcription. All such books and records, including, without limitation, books of account, at all times shall be the property of County and shall not be removed from the Golf Course by TGMS without County's prior approval and consent. Upon termination or expiration of the Agreement, all such books and records forthwith shall be turned over to County, to assure the orderly continuance of the operation of the Golf Course, but such books and records shall thereafter be available to TGMS at all reasonable times for examination, audit, inspection, and transcription.

1.7.2 Periodic Financial and Operational Reports. TGMS shall cause to be delivered to County at the end of each accounting period cash basis financial statements as requested by the County, of the operation of the Golf Course for the immediately preceding accounting period and the fiscal year-to-date. Such statements shall be (i) delivered monthly, (ii) in the form and detail as TGMS and County shall agree upon, and (iii) taken from the books and records maintained for the Golf Course.

1.7.3 Annual Audited Financial Report. Within ninety (90) days after the end of each fiscal year, TGMS will cause to be delivered to County a compiled financial statement prepared by an independent certified public accountant showing the results of operations

of the Golf Course during such fiscal year. The County may request an audit at year end. The cost of such audit, if required, shall be borne by County. TGMS shall provide the County a copy of their annual tax return.

1.7.4 Annual Operating Plan. At least sixty (60) days before the beginning of each new fiscal year (which for the purposes of this Agreement shall be the calendar year), TGMS shall cause to be prepared and delivered to County's representatives an operating plan for the next year and an operating budget (including a working capital budget and a projected statement of cash flows) in preliminary draft form setting forth an itemized statement of the estimated receipts and disbursement for the forthcoming fiscal year. Such budget shall be based upon any proposed increases, fees, anticipated labor costs, management incentives, and estimates of food and beverage sales and shall take into account the general condition of the Golf Course, including furnishings and operating equipment. The operating plan and preliminary budget shall be subject to the County's approval. After reflecting the changes made thereto by County, a revised budget shall be submitted in final draft form no later than thirty (30) days after the preliminary budget has been reviewed and returned to TGMS. Once approved by TGMS and the County, such budget shall constitute the agreed standard and plan to which TGMS shall adhere and shall define the Annual Budget or Operating Budget as such terms are used in this Agreement. Except in the case of emergency repairs permitted under the terms of this Agreement and expenses to accommodate unanticipated personnel changes described in Section 1.4.5, above, no expense may be incurred or commitments made by TGMS in connection with the maintenance, repair, or operation of the Golf Course in excess of the amounts allocated to the various classification of expense in the approved budget without the County's specific written approval. The budget shall be in the format generally accepted by accounting firms specializing in Golf Course accounting and shall separately set forth estimates of total sales and income, expenses and profit by department for golf, food and beverage (combined), rentals (if any), and miscellaneous income. General and other undistributed expenses not allocable to any given department shall include: (i) administrative and general expenses, (ii) advertising and sales promotion, (iii) energy and utilities, (iv) repairs and maintenance, (v) fire insurance and franchise taxes, (vi) real estate taxes, (vii) rent and (viii) provisions for capital expenditures. Incentive compensation shall be included in the budget as described in Article I Section 1.12.1.

1.7.5 Administrative Procedures Manual. No later than 30 days after the Commencement Date, TGMS shall submit for the review and approval by County a proposed Administrative Procedures Manual providing such information as (a) organization charts, (b) methods for reviewing all existing procedures, (c) procurement and contracting procedures, (d) accounting, bookkeeping and record keeping systems and (e) personnel procedures. Within 30 days of the receipt of the proposed Administrative Procedures Manual, County shall submit any written comments to TGMS. The Parties will meet to resolve all outstanding differences and to agree upon a final Administrative Procedures Manual, which must be approved in writing by both Parties. The Administrative Procedures Manual shall remain in effect for the term of this Agreement, subject to revision and amendment by written agreement of the Parties.

1.7.6 Operations and Maintenance Procedure Manuals. No later than 30 days after the Commencement Date, TGMS shall submit for review and approval by County proposed Operations and Maintenance Procedure Manuals providing operations and maintenance procedures. These procedures should include information regarding:

- (a) equipment operating procedures;
- (b) maintenance programs for the Golf Course and equipment;
- (c) safety programs;
- (d) environmental compliance and mitigation programs;
- (e) programs for complying with report requirements contained in this Agreement;
- (f) license and permit operating reporting requirements;
- (g) other regulatory reporting requirements;
- (h) cultural practices; and
- (i) golf operation rules and regulations.

Within 30 days of the receipt of the proposed Operations and Maintenance Procedure Manuals, County shall submit any written comments thereon to TGMS. The parties will meet to resolve all outstanding differences and to agree upon a final Operations and Maintenance Procedure Manuals, which must be approved in writing by both Parties. This final Operations and Maintenance Procedure Manuals will remain in effect for the term of this Agreement, subject to revision by written agreement of the parties.

1.8 TGMS Not Obligated To Advance Funds

TGMS shall not be obligated to advance any of its own funds to or for the account of County, nor to incur any liability unless County shall have furnished TGMS with funds necessary for the discharge thereof. However, if TGMS shall, for any reason, have advanced funds in payment of a permitted expense in the maintenance and operation of the Golf Course, County shall reimburse TGMS on demand, and TGMS shall have the right to reimbursement from the Agency Account.

1.10 Insurance

1.10.1 Insurance Maintained by County. TGMS shall provide and maintain insurance in the following amounts to protect the interests of the County and TGMS, paid for out of the TGMS Golf Account. Said coverage shall furnish to County and TGMS reasonable protection in the ownership, management, and operation of the Golf Course. All insurance coverages are to be written in companies acceptable to County and TGMS. TGMS shall furnish to County true copies of the original policies including current endorsements, and other attachments to those policies as well as all amendments made to those original policies after initial issuance.

Form of Coverage

(i)	Property insurance	minimum 80% of insurable value
(ii)	Comprehensive General Public & Product Liability (including Dram Shop Coverage)	
	Bodily Injury – Each Person	\$1,000,000
	Bodily Injury – Each Accident	\$1,000,000
	Property Damage – Each Accident	\$1,000,000
	Property Damage – Aggregate	\$1,000,000
(iii)	Excess Umbrella Coverage	\$4,000,000
(iv)	Workers Compensation	Statutory
	Employers Liability	
	Bodily Injury by Accident – Each Accident	\$500,000
	Bodily Injury by Disease – Each Employee	\$500,000
	Bodily Injury by Disease – Policy Limit	\$500,000
(v)	Employment Practices Liability	\$5,000,000
(vi)	Such other insurance coverages as the County may require	

1.10.2 In the policies described in paragraphs (i), (ii) and (iii) above the County shall be listed as named insured and TGMS shall be listed as additional insured, and those policies shall provide that the loss, if any payable thereunder, shall be adjusted by and payable to County.

1.10.3 Property insurance shall include fire and extended coverage on the buildings and all contents, in an aggregate amount which shall not be less than eighty percent (80%) of the full insurable value thereof and in no event below the minimum amount necessary to avoid the effect of co-insurance provisions of such policies, and at least the minimum coverage set forth above (or such greater amounts as may be required by any contract affecting the Golf Course), and in the form that it is satisfactory to County and TGMS.

1.10.4 TGMS shall have all policies of insurance provide that the insurance company, or companies, will have no right of subrogation against any party hereto, their agents, or employees. TGMS assumes all risks in connection with the adequacy of any insurance or self-insurance program, and waives any claim against County for any liability, cost, or expense arising out of any uninsured claim, in part or in full, in any nature whatsoever. Proof of premium payments, in accordance with each policy, shall be delivered to County within five (5) days of the premium due date.

1.11 Warranties

TGMS will ensure maintenance of all warranties and guaranties and to cause the reimbursement of expenses for maintenance, repairs, and replacement, and for labor and materials associated with all warranted or guaranteed equipment and furnishings.

1.12 Management Fees

1.12.1 For the management services to be rendered by TGMS hereunder, TGMS shall be entitled to receive base compensation on the first day of each month during the continuance of this Agreement the sum of Nine Thousand Dollars (\$9,000). Beginning in year two of this Agreement, the monthly compensation shall be subject to an increase based on the Portland Consumer Price Index. In addition to the base compensation, TGMS shall be entitled to incentive compensation in the amounts and subject to the formulas contained in the approved budget. Base compensation shall be paid to TGMS by County monthly out of the County Golf Account. Incentive compensation shall be paid the first month of the new budget year based upon the net revenue from the previous year per the following formula:

When 90 – 100 percent of the net revenue is achieved TGMS will earn a three (3) percent bonus of the net revenue.

- 100% – 105% of the net revenue is achieved earns a 4% bonus
- 105% – 110% of the net revenue is achieved earns a 5% bonus
- 110% – 115% of the net revenue is achieved earns a 6% bonus
- 115% – 120% of the net revenue is achieved earns a 7% bonus
- 120% - + of the net revenue is achieved earns a 8% bonus

1.12.2 If for any reason payment to TGMS is withheld, TGMS reserves the right to discontinue all management services pertaining to the Golf Course until payment of the account is made in full. All past-due amounts shall bear interest at the maximum rate allowable by law from the date payment is due until payment is received by TGMS. Any such termination of service by TGMS shall not adversely affect TGMS's right to compensation.

2 Article II: MISCELLANEOUS

2.1 Consent

Except as herein otherwise provided, whenever in this Agreement the consent or approval of TGMS or County is required, such consent or approval shall not be unreasonably withheld.

2.2 Indemnification

2.2.1. Indemnification by County. Subject to the limits of the Oregon Tort Claims Act, and Article 11 Section 10 of the Oregon Constitution, County agrees to indemnify, defend and hold harmless TGMS, its officers, and employees, all as agents of the County, from and against all tort claims or demands arising out of an alleged act or omission occurring in the performance of TGMS' duty under this Agreement, provided however that County's obligations under this section do not apply in case of malfeasance in office or willful or wanton neglect of duty by the party seeking indemnification.

2.2.2. Indemnification by TGMS. TGMS shall indemnify, defend and hold harmless County, and its officers and employees, from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or in connection with TGMS' performance of the work under this agreement, to the extent such claims and actions are not subject to defense and indemnification by the County under the preceding paragraph 2.2.1.

2.2.3 Nothing in this Agreement shall be construed as constituting the County and TGMS as partners or joint ventures, or otherwise imposing on TGMS any liability or obligation of County, or upon County any liability of TGMS except as such liability may arise under the terms of this Agreement.

2.3 Debt Service

County agrees to provide adequate funds to maintain current monthly payments on all debt obligations of the Golf Course or obligations, which are secured by the Golf Course's assets, if any, and on all leases. TGMS shall have no liability to County or any lender with respect to such financing.

2.4 Entire Agreement

This Agreement, along with the Request for Proposals for Management Services for The Operation Of Stone Creek Golf Course Clackamas County Oregon, dated September 29, 2004, and the proposal response from TGMS dated September 29, 2004, represent the entire agreement between the County and TGMS and supersedes any and all prior negotiations, representations or agreements. This Agreement may be amended only by written instrument signed by County and TGMS as appropriate under the circumstances.

2.5 Commencement Date

The commencement date of this Agreement shall be the first day of November, 2004.

2.6 Notification

All notifications related to this Agreement shall be deemed to be adequate if sent by first class United States mail and addressed to:

TGMS representative

Total Golf Management Services
19586 Kari Ann
Oregon City, Oregon 97045
Attn: Gordon Tolbert

County representative

Attn. Dan Zinzer, Parks Manager
9101 SE Sunnyside Blvd
Clackamas, OR 97015

2.7 Term of Agreement

2.7.1 This agreement shall be effective as of the Commencement Date and shall continue for an initial period of five (5) years with the opportunity for mutually agreeable five (5) year extensions.

2.7.2 Not later than twelve (12) months prior to the expiration of the then current Term, the Parties shall commence negotiations with each other concerning any extension and the changes, if any, to the Services or the provisions of this Agreement that they require to facilitate such an extension.

2.7.3 If the parties cannot agree upon a five year extension of this Agreement, the present contract terms shall be extended for one-hundred and eighty (180) days or upon the selection of a replacement contractor and then terminate.

2.7.4 Termination by County. County may terminate the Agreement with respect to TGMS at any time for cause. For the purposes of this section "cause" shall mean any of the following:

2.7.4.1. the death of Gordon Tolbert;

2.7.4.2. the permanent disability of Gordon Tolbert rendering him unable to perform the duties to be performed by TGMS;

2.7.4.3. the failure or refusal of TGMS to perform the services called for under the terms of this Agreement;

2.7.4.4. a finding that TGMS, Gordon Tolbert shall have been guilty of fraud, deceit or other similar act of dishonesty.

2.7.4.5. the dissolution, bankruptcy, liquidation, and/or cessation of business of TGMS.

2.7.4.6. TGMS's receipt of notice from County stating that TGMS has materially breached its obligations under this Agreement, and specifying the nature of the breach, unless TGMS cures the breach within such thirty (30) days. If cure cannot reasonably be completed within thirty (30) days, the cure period shall be continued for so long as TGMS diligently pursues the cure.

2.7.5. Termination by TGMS. TGMS may terminate the Agreement with respect to County at any time for cause. For the purposes of this section "cause" shall mean County's material breached of its obligations under this Agreement, provided that TGMS shall provide County notice stating that County has materially breached its obligations under this Agreement, and specifying the nature of the breach, and providing County thirty (30) days within which to cure the breach. If cure cannot reasonably be completed within thirty days, the cure period shall be continued for so long as County diligently

pursues the cure.

2.7.6 Effect of Termination. If this Agreement is terminated in accordance with this section, all services shall be deemed completed and all amounts due hereunder shall be paid through the termination date. Thereafter the parties herein shall have no further obligations to each other under this Agreement, except for the provisions of Article I, Section 1.8, and Article II, Section 2.2, which shall survive the termination of this Agreement.

2.8 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Oregon without regard to its choice of laws principles. Exclusive venue for any action will be in the Circuit Court of Clackamas County, Oregon.

2.9 Assignment

No interest in this Agreement may be assigned or duty delegated without the express prior written consent of the County.

2.10 Public Contracting

To the extent any activities of TGMS under this Agreement are or become subject to statutorily required provisions under the Oregon Public Contracting Law, TGMS agrees to comply with any such provisions.

2.11 Prevailing Wage Rate

To the extent TGMS hires workers to work on a project that constitutes public works, as that term is defined at ORS 279.348(3), TGMS shall be required to pay existing prevailing wage rates pursuant to ORS Chapter 279 and shall pay all necessary fees to the Oregon Bureau of Labor and Industries pursuant to ORS 279.352(2). Prevailing Wage Scales are available from the Oregon Bureau of Labor and Industries. It shall be the responsibility of TGMS to obtain and comply with such requirements.

2.12 Appropriations

This Agreement is subject to the appropriation and availability of County funds. In the event that the funds are not appropriated or are otherwise unavailable, County reserves the right to terminate this Agreement upon written notice to TGMS. Termination due to non-appropriation or unavailability of funds shall not be deemed an Event of Default by the County. Upon receipt of the written notice, TGMS shall cease all work associated with the Agreement. Should such an event occur, TGMS shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, TGMS shall have no right to recover from the

County any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

3.0 Title, Documents and Data

3.1 Materials and Equipment. Title to all materials, equipment, supplies, consumables, spare parts and other items of tangible personal property purchased or obtained by TGMS for which County is obligated to pay TGMS shall pass immediately to and vest in County upon the passage of title from the vendor or supplier thereof, provided, however, that such transfer of title shall in no way affect TGMS's obligations as set forth in the other provisions of this Agreement.

3.2 Documents. All materials and documents prepared or developed by TGMS or its affiliates, employees, representatives, agents or contractors in connection with the Golf Course or the performance of its services hereunder, including all manuals, data, designs, drawings, plans, specifications, reports, and accounts, will automatically become the property of County when prepared, TGMS nor their affiliates, employees, representatives, agents or contractors may use these materials and documents for any purpose other than the performance of the services hereunder, without County's prior written approval. All these materials and documents, together with any materials and documents furnished to TGMS or to their affiliates, employees, representatives, agents or contractors by County, shall be delivered to County upon expiration or termination of this Agreement and before final payment is made to TGMS.

3.3 Review by County. In addition, all such materials and documents referred to above must be available for review by County at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of County shall be prepared and processed in accordance with the requirements and specifications set forth in the Administrative Procedures Manual. However, County's approval of materials and documents submitted by TGMS shall not relieve TGMS of its responsibility for the correctness thereof or of its obligation to meet all the requirements of this Agreement.

IN WITNESS WHEREOF, County and TGMS have executed this Agreement as of the date indicated.

TOTAL GOLF MANAGEMENT SERVICES, LLC

By: Gordon B. Tolbert
Name: Gordon Tolbert
Title: Managing Member
Date: January 13, 2005

**CLACKAMAS COUNTY, OREGON
BOARD OF COMMISSIONERS**

By: Martha Schrader
Martha Schrader, Chair
Date: January 13, 2005

By: Mary Ruetke
Recording Secretary
Date: January 13, 2005

By: David W. Anderson
approved as to form
County Counsel
Date: January 13, 2005

AMENDMENT #1

To The Contract Documents with Total Golf Management Services LLC For Management Services for the Operation of Stone Creek Golf Course

This Amendment, when signed by the Contractor and the Director of Business and Community Services, as authorized by Board Order Number 2006-366 and Clackamas County LCRB Rules, will become part of the contract documents, superseding the original to the applicable extent indicated.

SECTION 1.14: Reads: The County designates the Transportation Engineering, Parks & Property Management Manager as the representative who will act as principle operating liaison between County and TGMS.

Change to Read: The County designates the Director of Business and Community Services as the representative who will act as principle operating liaison between County and TGMS.

SECTION 1.7.1 Reads: TGMS shall insure that full and adequate books of account and other records are kept reflecting the results of operations of the Golf Course on a Cash basis,....

Change to Read: TGMS shall insure that full and adequate books of account and other records are kept reflecting the results of operations of the Golf Course on an Accrual basis,.....

SECTION 1.12 Reads: For the management services to be rendered by TGMS hereunder, TGMS shall be entitled to receive base compensation on the first day of each month during the continuance of this Agreement the sum of Nine Thousand Dollars (\$9,000).

Change to Read: For the management services to be rendered by TGMS hereunder, TGMS shall be entitled to receive base compensation on the first day of each month during the continuance of this Agreement the sum of Ten Thousand Four Hundred Dollars (\$10,400)

SECTION 2.5 Reads: The commencement date of this Agreement shall be the first day of November 2004.

Change to Read: The commencement date of this Agreement shall be the first day of November 2004. For the purpose of extension of this Agreement, the extension periods shall be January through December. This first 5 year extension period shall be January 1, 2010 through December 31, 2014 inclusive.

SECTION 2.6 Revise: Address for County to read: Clackamas County
BCS Director
150 Beaver Creek Rd
Oregon City OR 97045

SECTION 2.7 Delete: Section 2.7.4.1 and 2.7.4.2

Total Golf Management Services LLC
19586 Kari Ann Court
Oregon City OR 97045

Gordon B. Tolbert
Gordon Tolbert

6-24-09
Date

CLACKAMAS COUNTY BOARD of
COUNTY COMMISSIONERS by:

Dan Zinzer
Dan Zinzer, Director
Business and Community Services

6/30/09
Date



Gary Barth
Director

BUSINESS AND COMMUNITY SERVICES

Development Services Building
150 Beaver Creek Road, Oregon City, OR 97045

MEMO

To: Gordon Tolbert, Total Golf Management Services, LLC
From: Gary Barth, Director Business and Community Services
Date: September 18, 2013
Subject: Addendum to Contract between Clackamas County Business & Community Services and Total Golf Management Services, LLC (TGMS)

Clackamas County Business & Community Services has an active and ongoing contract with Total Golf Management Services, LLC regarding the operation and maintenance of Stone Creek Golf Club and its related amenities.

Section 1.1.5.2 Additional Benefits, specifically states:

TGMS may provide gratuitous food and other Golf Course use benefits consistent with industry standards and agreed upon by the County's authorized representative. The direct cost of providing these benefits shall be an operating expense of the Golf Course.

However the contract does not clarify or quantify the extent to which the "Additional Benefits" are anticipated.

At the inception of the contract, though nothing formal was provided, the County authorized representative and TGMS agreed to a limit of Five (5) complimentary round certificates per year, to be utilized as Business & Community Services deemed appropriate. Charity rounds may be used Monday through Friday anytime and after 2:00 p.m. on weekends and holidays.

For the purpose of clarifying the ambiguous nature of the contract itself, the prior mentioned informal commitment continues to meet acceptable standards and expectations and will be the agreed upon provision until such time as both parties agree to alter it.



Gary Barth, Director
Business & Community Services
Date 9/23/13



Gordon Tolbert, Managing Member
Total Golf Management Services, LLC
Date 9-26-13

AMENDMENT #2

To The Contract Documents with Total Golf Management Services LLC For the Management Services for the Operation of Stone Creek Golf Course

This Amendment, when signed by the Contractor and Board of County Commissioners will become part of the contract documents, superseding the original to the applicable extent indicated.

SECTION 1.6.1: Reads: TGMS shall establish a Golf Course operational account at the same bank or trust company at which the County Account is established. TGMS shall authorize two signatories to the TGMS Account. Funds deposited into the TGMS Account shall not be comingled with other funds of TGMS.

Change to Read: TGMS shall establish a Golf Course operational bank account which will include two signatories on the TGMS Golf Course Account. Funds deposited into the TGMS Golf Course Account shall not be comingled with other funds of TGMS.

SECTION 1.6.4: Reads: The County shall furnish funds sufficient to constitute working capital for the operation of the Golf Course.

Change to Read: The County shall furnish funds, not to exceed \$150,000, that are sufficient to constitute working capital for the operation of the Golf Course.

SECTION 1.7.4: Reads: At least sixty (60) days before the beginning of each new fiscal year (which for the purposes of this Agreement shall be the calendar year)...

Change to Read: At least sixty (60) days before the beginning of each new fiscal year (which for the purposes of this Agreement shall be the County fiscal year of July 1st through June 30th).....

SECTION 1.10.1: Reads:

Form of Coverage

(i)	Property insurance	minimum 80% of insurable value
(ii)	Comprehensive General Public & Product Liability (including Dram Shop Coverage)	
	Bodily Injury-Each Person	\$1,000,000
	Bodily Injury-Each Accident	\$1,000,000
	Property Damage-Each Accident	\$1,000,000
	Property Damage-Aggregate	\$1,000,000
(iii)	Excess Umbrella Coverage	\$4,000,000
(iv)	Workers Compensation	Statutory
	Employers Liability-	
	Bodily Injury by Accident-Each Accident	\$500,000
	Bodily Injury by Disease-Each Employee	\$500,000
	Bodily Injury by Disease-Policy Limit	\$500,000
(v)	Employment Practices Liability	\$5,000,000
(vi)	Such other insurance coverages as the County may require	

Change to Read:

Form of Coverage

(i)	Property insurance	minimum 80% of insurable value
(ii)	Commercial General Public & Product Liability (including Dram Shop Coverage)	
	Bodily Injury-Each Person	\$1,000,000
	Bodily Injury-Each Accident	\$1,000,000
	Property Damage-Each Accident	\$1,000,000
	General-Aggregate	\$2,000,000
(iii)	Excess Umbrella Coverage	\$4,000,000
(iv)	Workers Compensation	Statutory
	Employers Liability	
	Bodily Injury by Accident-Each Accident	\$500,000
	Bodily Injury by Disease-Each Employee	\$500,000
	Bodily Injury by Disease-Policy Limit	\$500,000
(v)	Employment Practices Liability	
	Each Occurrence	\$2,000,000
	Aggregate	\$3,000,000
(vi)	Such other insurance coverages as the County may require	

SECTION 1.10.5: Add to Read: In section (iv) Workers Compensation above, TGMS, as an employer of one or more workers subject to workers' compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. TGMS shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 bodily injury by disease each employee, and \$500,000 each policy limit.

SECTION 1.10.6: Add to Read: In the policies described in paragraph (v) above, TGMS shall be listed as named insured and the County shall be listed as additional insured.

SECTION 1.12.1: Reads: For the management services to be rendered by TGMS hereunder, TGMS shall be entitled to receive base compensation on the first day of each month during the continuance of this Agreement the sum of Ten Thousand Four Hundred Dollars (\$10,400). Beginning in year two of this Agreement, the monthly compensation shall be subject to an increase based on the Portland Consumer Price Index. In addition to the base compensation, TGMS shall be entitle to incentive compensation in the amounts and subject to the formulas contained in the approved budget. Base compensation shall be paid to TGMS by County monthly out of the County Golf Account. Incentive compensation shall be paid the first month of the new budget year based upon the net revenue from the previous year per the following formula:

When 90 – 100 percent of the net revenue is achieved TGMS will earn a three (3) percent bonus of the net revenue.

- 100% - 105% of the net revenue is achieved earns a 4% bonus
- 105% - 110% of the net revenue is achieved earns a 5% bonus
- 110% - 115% of the net revenue is achieved earns a 6% bonus
- 115% - 120% of the net revenue is achieved earns a 7% bonus
- 120% - + of the net revenue is achieved earns a 8% bonus

Change to Read: For the management services to be rendered by TGMS hereunder, TGMS shall be entitled to receive base compensation on the first day of each month during the continuance of this Agreement the sum of Ten Thousand Four Hundred Dollars (\$10,400). Beginning in year two of this Agreement, the monthly

compensation shall be subject to an increase based on the Portland Consumer Price Index. Base compensation shall be paid to TGMS by County monthly out of the County Golf Account. In addition to the base compensation, TGMS shall be entitled to incentive compensation in the amounts and subject to the formulas contained in the approved budget. Incentive compensation shall be paid by the end of the second month of the new fiscal year based upon the net revenue from the previous fiscal year per the following:

- Net proceeds in excess of \$600,000 shall be split 80% to the County and 20% to TGMS. TGMS shall annually agree to Annual Operating Plan which shall outline as specified in 1.7.4 the details of how "net" revenue is calculated.

SECTION 2.3 Delete: Section 2.3 Debt Service

SECTION 2.5 Reads: The commencement date of this Agreement shall be the first day of November 2004. For the purpose of extension of this Agreement, the extension periods shall be January through December. This 5 year extension period shall be January 1, 2010 through December 31, 2014 inclusive.

Change to Read: The commencement date of this Agreement shall be the first day of November 2004. For the purpose of extension of this agreement after December 31, 2014, this second five year extension shall be five and a half years to accommodate changing from a calendar year to a fiscal year, and shall be January 1, 2015 through June 30, 2020, inclusive. Thereafter, extension periods shall be five years, July through June.

Total Golf Management Services LLC
19586 Kari Ann Court
Oregon City, OR 97045

Gordon Tolbert
Gordon Tolbert

12/10/2014
Date

CLACKAMAS COUNTY BOARD of COUNTY
COMMISSIONERS by:

John Ludlow
John Ludlow, Chair

12-18-14 E.I.
Date

★ ★ ★ ★ ★ ★ ★

IMPORTANT INSURANCE INFORMATION

★ ★ ★ ★ ★ ★ ★

Please read this Notice carefully. No coverage is provided by this notice nor can it be construed to replace any provision of your policy. You should read your policy and review your declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this notice, the provisions of the policy shall prevail.

CONSUMER REPORT INQUIRY NOTICE

Consumer reports, including credit history may have been ordered from a consumer reporting agency to underwrite and/or rate your insurance policy. You have the right to access this information and request correction of any inaccuracies. Your consumer reports, including your credit history are not affected in any way by our inquiry.

We are committed to respecting your privacy and safeguarding your personal information.

COM-PAK SUMMARY

PRINTED 02/20/2015

ONE NATIONWIDE PLAZA
COLUMBUS, OH 43215-2220

Number: ACP 2573267974 Effective from 03/13/2015 to 03/13/2016

Named Insured: TOTAL GOLF MANAGEMENT SERVICES LLC

Mailing Address: 14603 S STONERIDGE DR
OREGON CITY, OR 97045-9447

Agency Name: ERIC L. WEBER AGENCY 36 80247-001 25 CSC

Agency Address: PORTLAND OR 97213-1400 (503)249-7667

Producer: ERIC L. WEBER AGENCY

Division	Program	Total Premium
A	COMMERCIAL GENERAL LIABILITY (AMCO)	\$ 4,782.00
B	COMMERCIAL PROPERTY (AMCO)	\$ 6,466.00
C	BUSINESS AUTO(NATIONWIDE)	\$ 1,656.00
D	COMMERCIAL INLAND MARINE (NATIONWIDE)	\$ 250.00
E	COMMERCIAL UMBRELLA LIABILITY (AMCO)	\$ 1,879.00

Not a bill. Your bill is sent separately.

NI

Estimated Total Premium: \$ 15,033.00

This Com-Pak is a portfolio of individual policies which serves to combine various insurance coverages written under a group of separate contracts of insurance.

**NOTICE OF TERRORISM INSURANCE COVERAGE
NOTICE – DISCLOSURE OF PREMIUM**

**Applies to all Commercial Policies, except for Farmowners Multiperil, Business Auto,
Crime, and Workers Compensation**

(This disclosure notice does not provide coverage, and it does not replace any provisions of your policy. You should read your policy for complete information on the coverages you are provided. If there is any conflict between the policy and this notice, the provisions of the policy shall prevail.)

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2007, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term “act of terrorism” means any act that is certified by the Secretary of the Treasury – in concurrence with the Secretary of State, and the Attorney General of the United States – to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurer’s liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is \$0, and does not include any charges for that portion of losses covered by the United States Government under the Act.

DRIVER SCHEDULE

Policy Number : ACP 2573267974

Here is a list of the drivers we have on file. Please notify us of any changes as they occur.

DRIVER NAME	DATE OF BIRTH	GENDER	LICENSE STATE	LICENSE NUMBER	DRIVER STATUS*	EXCLUDED DRIVER?
00001 GORDON B TOLBERT	10/11/1958	M	OR	8340322	FT	N

* Driver Status: Full time (FT), Part time (PT), Non-driver (ND)

**BUSINESS AUTO
DECLARATIONS**

80247

NATIONWIDE MUTUAL INSURANCE COMPANY
ONE NATIONWIDE PLAZA
COLUMBUS, OH 43215-2220

Policy Number: **ACP BA 2573267974**

Item One

Policy Period From **03/13/2015** To **03/13/2016** 12:01 AM Standard Time at the mailing address below

Named Insured: **TOTAL GOLF MANAGEMENT SERVICES LLC**

Mailing Address: **14603 S STONERIDGE DR
OREGON CITY, OR 97045-9447**

Agency Name: **ERIC L. WEBER AGENCY** 36 80247-001 000 25 CSC
Agency Address: **PORTLAND OR 97213-1400** (503)249-7667

Form of Business **CORPORATION**

In return for the payment of the premium, and subject to the terms of this policy, we agree with you to provide the insurance stated in this policy.

Item Two Schedule of Coverages and Covered Autos

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTOS section of the Business Auto or Motor Carrier Coverage Form next to the name of the coverage.

Coverage	Covered Autos	Limit and Deductible - the most we will pay for any one accident or loss	Premium
LIABILITY	7 19 8 9	1,000,000	1,386.00
PERSONAL INJURY PROTECTION	5	See State Schedule	16.00
UNINSURED MOTORISTS	6	See State Schedule	107.00
UNDERINSURED MOTORISTS (WHEN NOT INCL IN UNINSURED MOTORISTS)			No Coverage

COMPREHENSIVE	7	Actual Cash Value or Cost of	52.00
COLLISION	7	Repair Minus the Deductible in Item Three or Item Four	95.00

Estimated Basic Premium	\$	1,656.00
Estimated Assessments and Surcharges	\$	
Estimated Total Premium	\$	1,656.00

**BUSINESS AUTO
SCHEDULE(S)**

NATIONWIDE MUTUAL INSURANCE COMPANY
ONE NATIONWIDE PLAZA
COLUMBUS, OH 43215-2220

The following schedule(s) is/are a continuation of the declarations.

Number: **ACP BA 2573267974**

Effective from **03/13/2015** to **03/13/2016**

Named Insured: **TOTAL GOLF MANAGEMENT SERVICES LLC**

Agency Name: **ERIC L. WEBER AGENCY**

SCHEDULE OF FORMS AND ENDORSEMENTS

Form No.	Date	Title	Premium
AC0001	(10/13)	CHANGES IN COVERAGE FORMS - BUSINESS AUTO	
AC0102	(03/10)	BUSINESS AUTO EXTENSION ENDORSEMENT	
AC9954	(04/05)	AMENDMENT OF COVERED AUTO SYMBOL 7	
CA0001	(03/10)	BUSINESS AUTO COVERAGE FORM	
CA0149	(01/10)	OREGON CHANGES	
CA2105	(01/10)	OREGON UNINSURED MOTORISTS COV - BODILY INJURY	
CA2236	(01/10)	OREGON PERSONAL INJURY PROTECTION	
CA2386	(01/06)	EXCLUSION OF TERRORISM ABOVE STATUTORY LIMITS	
IL0017	(11/98)	COMMON POLICY CONDITIONS	
IL0021	(07/02)	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT	
IL0142	(09/08)	OREGON CHANGES - DOMESTIC PARTNERSHIP	
IL0279	(09/08)	OREGON CHANGES	
13614	(11/85)	SPECIAL CONTINUATION PROVISION	

SCHEDULE OF IMPORTANT NOTICES

Form No.	Date	Title
INUMOR	(01/08)	OREGON UM ELECTION FORM
IN5017	(05/93)	IMPORTANT NOTICE FOR RENEWAL POLICIES
IN5018	(06/93)	SPECIAL CLAIMS INFORMATION - OREGON
IN5039	(10/92)	NOTICE OF INSURANCE INFORMATION PRACTICES
IN5278	(12/13)	IMPORTANT NOTICE FAIR CREDIT REPORTING ACT
IN7165	(03/10)	BUSINESS AUTO EXTENSION ENDORSEMENT

PHSCHED (01-97)

Policy Number: ACP BA 25-7-3267974

Item Two (Continued) – Schedule of Coverages and Covered Autos

Schedule of Coverages - OREGON

COVERAGE	LIMIT OF INSURANCE	DEDUCTIBLE	PREMIUM
PERSONAL INJURY PROTECTION UNINSURED MOTORISTS - BODILY INJURY	See Endorsement 1,000,000		107.00

PVDECST 11-10 00

Policy Number: ACP BA 2573267974

Item Four - Schedule of Hired or Borrowed Auto Coverage

Coverage	Limit and Deductible	Estimated Cost of Hire	Rate for Each \$100 Cost of Hire	Premium
LIABILITY	See Item Two		1.56	45.00
COMPREHENSIVE				No coverage
COLLISION				No coverage
Total Premium				\$ 45.00

For other than motor carrier operations, cost of hire means the total amount you incur for the hire of autos you don't own (not including autos you borrow or rent from your partners or employees of their family members.) Cost of hire does not include charges for services performed by motor carriers of property or passengers.

Item Five - Schedule of Nonownership Coverage

Coverage	Limit	Business Type	Rating Basis	Number	Premium
LIABILITY	See Item Two				
		Other than a social service agency	Number of employees	10	103.00
Total Premium					\$ 103.00

Policy Number: ACP BA 25-7-3267974

Item Three – Schedule of Covered Autos You Own

Vehicle	Description	VIN Number	Class Code	Original Cost	New
002	2009 DANEN TRAILER	1D9US20239P283097	6919900	7,000	
Garaging Location				Territory	
OREGON CITY, OR 97045-9447				0116	
Coverage		Limit of Insurance	Deductible	Premium	
LIABILITY		See Item Two		52.00	
COMPREHENSIVE			250	21.00	
COLLISION			500	26.00	
PERSONAL INJURY PROTECTION		See Endorsement		Included	
Estimated Vehicle Premium				\$	99.00

Vehicle	Description	VIN Number	Class Code	Original Cost	New
003	1993 FORD RANGER	1FTRC15U8PPB18402	0319900	15,225	
Garaging Location				Territory	
OREGON CITY, OR 97045-9447				0116	
Coverage		Limit of Insurance	Deductible	Premium	
LIABILITY		See Item Two		1,186.00	
COMPREHENSIVE			1,000	31.00	
COLLISION			1,000	69.00	
PERSONAL INJURY PROTECTION		See Endorsement		16.00	
Estimated Vehicle Premium				\$	1,302.00

PVDECVS 11-10 00

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OREGON PERSONAL INJURY PROTECTION

For a covered "auto" licensed or principally garaged in, or "garage operations" conducted in, Oregon, this endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

SCHEDULE

Benefits	Limit Per Person
Medical And Hospital Expenses	\$ 15,000 Less Deductible, if Any
Income Continuation Expenses	\$ 3,000 Per Month
Loss Of Services Expenses	\$ 30 Per Day
Funeral Expenses	\$ 5,000
Child Care Expenses	\$ 25 Per Day, up to a Maximum of \$750
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

<p>Coverage for medical and hospital expenses is subject to a deductible of \$</p> <p>applicable to:</p> <p><input type="checkbox"/> You</p> <p><input type="checkbox"/> You and each "family member"</p> <p><input type="checkbox"/> You or the "family member(s)" named below:</p>
--

We agree with you, subject to all of the provisions of this endorsement and to all of the provisions of the policy except as modified herein, as follows:

A. Coverage

We will pay Personal Injury Protection benefits to an "insured" who sustains "bodily injury" in an "accident" arising out of the ownership, maintenance or use of an "auto" as an "auto". Subject to the limits shown in the Schedule, these Personal Injury Protection benefits consist of the following:

1. Medical And Hospital Expenses

All reasonable and necessary expenses incurred within one year from the date of the "accident" for medical, hospital, dental, surgical, ambulance and prosthetic services.

2. Income Continuation Expenses

70% of the "insured's" loss of income from work during a period of disability caused by "bodily injury" sustained by such person in the "accident", provided that:

- a. Such person was usually engaged in a paying occupation at the time of the "accident";
- b. The period of such disability continues for at least 14 days; and

- c. Income continuation expenses shall include only expenses for loss of income incurred from the date such disability commenced to the date on which such person is able to return to his usual occupation and is subject to a maximum payment period in the aggregate of 52 weeks.

3. Loss Of Services Expenses

Expenses reasonably incurred during a period of disability caused by "bodily injury" sustained by an "insured" in the "accident" for essential services that were performed by a person who is not related to the "insured", or residing in the "insured's" household, in lieu of those such person would have performed without income, provided that:

- a. Such person was not usually engaged in a paying occupation at the time of the "accident";
- b. The period of such disability continues for at least 14 days; and
- c. Loss of services expenses shall include only expense for such services actually rendered from the date such disability commenced to the date on which such person is reasonably able to perform such services and is subject to a maximum payment period in the aggregate of 52 weeks.

However, loss of services expenses shall not include child care expenses.

4. Funeral Expenses

Reasonable and necessary expenses for professional funeral services incurred within one year after the date of the "accident".

5. Child Care Expenses

Expenses reasonably incurred for the care of a minor child of an "insured" who has sustained "bodily injury" in the "accident", provided:

- a. The "insured" is the parent of the minor child and is required to be hospitalized for a minimum of 24 hours; and
- b. Payments begin after the initial 24 hours of hospitalization and are made for as long as the "insured" is unable to return to work if he or she is usually engaged in a paying occupation. If such person was not usually engaged in a paying occupation at the time of the "accident", then payment will continue for as long as he or she is unable to perform essential services that he or she would have performed without income.

B. Who Is An Insured

1. You, if you sustain "bodily injury" while "occupying" a "private passenger auto" or, while a "pedestrian", through being struck by an "auto".
2. If you are an individual, any "family member" who sustains "bodily injury" while "occupying" a "private passenger auto" or, while a "pedestrian", through being struck by an "auto".
3. Any other person who sustains "bodily injury" while "occupying" or using the "covered auto" with your permission or, while a "pedestrian", through being struck by a "covered auto".

C. Exclusions

We will not pay Personal Injury Protection benefits for "bodily injury":

1. Sustained by any person:
 - a. Who intentionally causes injury to himself or herself;
 - b. While participating in any prearranged or organized racing or speed contest or in practice or preparation for any such contest; or
 - c. Who willfully conceals or misrepresents any material fact in connection with a claim for Personal Injury Protection benefits.
2. That results in the application of income continuation expenses and loss of service expenses, sustained by any "pedestrian" other than you or a "family member" in an "accident" that occurs outside the State of Oregon.
3. Arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
4. Resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material.
5. Sustained by you or any "family member" while "occupying" any "auto" you own or furnished or available for your regular use that is not a "covered auto", including a motorcycle or moped as defined in Oregon Statutes.
6. Sustained by a "family member" while "occupying" any "auto" owned by such "family member" or furnished or available for the "family member's" regular use that is not a "covered auto", including a motorcycle or moped as defined in Oregon Statutes.

D. Limit Of Insurance

1. Regardless of the number of "insureds", policies or bonds applicable, claims made, premiums paid or "covered autos" to which this coverage applies, the most we will pay for Personal Injury Protection benefits for "bodily injury" sustained by any one "insured" in any one "auto" "accident" is the Limit Per Person amount shown in the Schedule.
2. Any amount paid under this coverage will be reduced by any amount paid or payable by any workers' compensation or any other similar medical or disability benefits law (excluding Medicare).
3. Any amount payable under this coverage to you or a "family member" will reduce any amount payable for damages under this coverage form's Uninsured Motorists Coverage.
4. Any amount paid under this coverage to an "insured" will reduce any amount the "insured" may be entitled to recover for the same damages under this coverage form's Liability Coverage.
5. Any amount payable for medical and hospital expenses shall be reduced by the amount of the deductible you may elect. If you elect a deductible, it will be shown in the Schedule. The deductible applies only to you and/or any "family member".

E. Changes In Conditions

The conditions are changed for Personal Injury Protection as follows:

1. The following is added to **Duties In The Event Of Accident, Claim, Suit Or Loss:**
 - a. If an "insured" or his or her legal representative institutes legal action for damages for "bodily injury", he or she must promptly give us a copy of the summons and complaint or other process served in connection with the legal action.
 - b. The "insured" or someone on his or her behalf must promptly give us written proof of claim, under oath if required, including:
 - (1) Full particulars of the nature and extent of the "bodily injury", treatment and rehabilitation received and contemplated; and
 - (2) Such other information that will help us determine the amount due and payable.
 - c. The "insured" or his or her legal representative shall give us authorization, each time we request it, to obtain medical reports, copies of records and information with respect to loss of income.

d. We may require that the "insured", as a condition for receiving income continuation expenses, cooperate in furnishing us reasonable medical proof of his or her inability to work.

2. The **Other Insurance** Condition in the Business Auto and Garage Coverage Forms and the **Other Insurance – Primary And Excess Insurance Provisions** Condition in the Truckers and Motor Carrier Coverage Forms are replaced by the following:

The coverage provided in this endorsement is excess for:

- a. "Bodily injury" sustained by any "pedestrian", other than you or any "family member". This coverage is excess to the extent that amounts are paid or payable to or for such "pedestrian" under any collateral benefits, including but not limited to:
 - (1) Insurance benefits under another policy issued by us or another company;
 - (2) Governmental benefits (except Medicare benefits);
 - (3) Gratuitous benefits; or
 - (4) Oregon Personal Injury Protection benefits.
- b. "Bodily injury" sustained by you or any "family member" while "occupying" any "auto", other than the "covered auto", with respect to which Oregon Personal Injury Protection benefits are in effect.

3. The following conditions are added:

a. Reimbursement And Trust

In the event of payment to any person of any benefits under this endorsement:

- (1) We shall be entitled to reimbursement or subrogation in accordance with the provisions of ORS 743.825, ORS 743.830 or Section 8 of Chapter 784 Laws 1975.
- (2) We are entitled to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of the "insured" against any person or organization legally responsible for the "accident", to the extent benefits were paid, less our share of expenses, costs and attorney's fees incurred by the "insured" in connection with such recovery.
- (3) The "insured" shall hold in trust for our benefit all his or her rights of recovery to the extent of benefits furnished.

- (4) The "insured" shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights.
- (5) If we request in writing, the "insured" shall take, through any representative not in conflict of interest with him or her, designated by us, such action as may be necessary or appropriate to recover such benefits furnished as damages from the person or organization legally responsible, such action to be taken in the name of the "insured", but only to the extent of benefits furnished by us. In the event of recovery, we shall also be reimbursed out of such recovery for the "insured's" share of expenses, costs and attorney's fees incurred by us in connection with the recovery.
- (6) The "insured" shall execute and deliver to us such instructions and papers as may be appropriate to secure the rights and obligations of the "insured" and us as established by this provision.

b. Arbitration

- (1) If we and an "insured" disagree whether the "insured" is entitled to recover Personal Injury Protection benefits, or do not agree as to the amount payable under this coverage, then if both parties agree at the time of the dispute the matter shall be arbitrated.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree on the choice of the third arbitrator within 30 days, either may request that selection be made by a judge of a court of record in the county and state in which such arbitration is pending. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally. Costs to the "insured" of the arbitration proceedings shall not exceed \$100, and all other costs of arbitration shall be borne by us. However, attorneys' fees and fees paid to medical or other expert witnesses are not arbitration expenses and are to be paid by the party incurring them.

- (2) Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

c. Coordination And Nonduplication

Any automobile medical payments coverage afforded under this Coverage Part is excess over any medical expense benefits paid or payable under this endorsement or any other automobile insurance policy covering "bodily injury" to an "insured".

F. Additional Definitions

As used in this endorsement:

1. "Covered auto" means a "private passenger auto" to which the "bodily injury" Liability Coverage of the policy applies and for which a specific premium is charged.
2. "Family member" means a spouse and any other person related to you by blood, marriage or adoption (including a ward or foster child) who is a resident of the same household as you.
3. "Occupying" means in or upon or entering into or alighting from.
4. "Pedestrian" means any person while not "occupying" a self-propelled vehicle other than a wheelchair or a similar low-powered motorized or mechanically propelled vehicle that is designed specifically for use by a physically disabled person who has a medical necessity for a wheelchair or other low-powered vehicle.
5. "Private passenger auto" means a four-wheel passenger or station wagon-type "auto" not used as a public or livery conveyance and includes any other four-wheel "auto" of the utility, pick-up body, sedan delivery or panel truck type not used for wholesale or retail delivery other than farming, a self-propelled mobile home and a farm truck.

All terms and conditions of this policy apply unless modified by this endorsement.

**BUSINESS AUTO
DECLARATIONS**

80247

NATIONWIDE MUTUAL INSURANCE COMPANY
ONE NATIONWIDE PLAZA
COLUMBUS, OH 43215-2220

Amended Declarations

03/13/2015

Policy Number: **ACP BA 2573267974**

Item One

Policy Period From **03/13/2015** To **03/13/2016** 12:01 AM Standard Time at the mailing address below

Named Insured: **TOTAL GOLF MANAGEMENT SERVICES LLC**

Mailing Address: **14603 S STONERIDGE DR
OREGON CITY, OR 97045-9447**

Agency Name: **ERIC L. WEBER AGENCY** **36 80247-001 000 25 CSC**
Agency Address: **PORTLAND OR 97213-1400** **(503)249-7667**

Form of Business **CORPORATION**

In return for the payment of the premium, and subject to the terms of this policy, we agree with you to provide the insurance stated in this policy.

Item Two Schedule of Coverages and Covered Autos

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTOS section of the Business Auto or Motor Carrier Coverage Form next to the name of the coverage.

Coverage	Covered Autos	Limit and Deductible - the most we will pay for any one accident or loss	Premium
LIABILITY	7 19 8 9	1,000,000	1,386.00
PERSONAL INJURY PROTECTION	5	See State Schedule	16.00
UNINSURED MOTORISTS	6	See State Schedule	107.00
UNDERINSURED MOTORISTS (WHEN NOT INCL IN UNINSURED MOTORISTS)			No Coverage

COMPREHENSIVE	7	Actual Cash Value or Cost of	52.00
COLLISION	7	Repair Minus the Deductible in Item Three or Item Four	95.00

Estimated Basic Premium	\$	1,656.00
Estimated Assessments and Surcharges	\$	
Estimated Total Premium	\$	1,656.00

PVDECP1 (09-13) 00

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

- A. We will pay, as interest may appear, you and the loss payee named in the policy for "loss" to a covered "auto".
- B. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.
- C. We may cancel the policy as allowed by the CANCELLATION Common Policy Condition.

Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy we will mail you and the loss payee the same advance notice.

- D. If we make any payments to the loss payee, we will obtain his or her rights against any other party.

All terms and conditions of this policy apply unless modified by this endorsement.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

- A. We will pay, as interest may appear, you and the loss payee named in the policy for "loss" to a covered "auto".
- B. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.
- C. We may cancel the policy as allowed by the CANCELLATION Common Policy Condition.

Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy we will mail you and the loss payee the same advance notice.

- D. If we make any payments to the loss payee, we will obtain his or her rights against any other party.

All terms and conditions of this policy apply unless modified by this endorsement.

CHANGE OF DECLARATIONS ENDORSEMENT - PLEASE READ CAREFULLY

NATIONWIDE MUTUAL INSURANCE COMPANY
COLUMBUS, OH 43215-2220

Policy Number: ACP BA 2573267974	
Policy Effective From 03/13/2015 To 03/13/2016 12:01 A.M. Standard Time	
Transaction Effective 03/13/2015 12:01 A.M. Standard Time	
Named TOTAL GOLF MANAGEMENT SERVICES LLC Insured:	
Mailing Address: 14603 S STONERIDGE DR OREGON CITY, OR 97045-9447	Premium ADDITIONAL \$
Agency: ERIC L. WEBER AGENCY 4415 NE SANDY BLVD SUITE 200 PORTLAND OR 97213-1400	36 80247-001 000 25 (503)249-7667 CSC
Total: \$	

			Premium
	CHANGED POLICY GENERAL	1	\$ 0.00
ADDED	LESSOR-ADDL INSD/LP CLACKAMAS COUNTY 150 BEAVERCREEK RD OREGON CITY, OR 97045-4302		

	ADDED FORM	2	\$ 0.00
CA2001P	(03/06) LESSOR - ADDITIONAL INSURED AND LOSS PAYEE		

	ADDED FORM	3	\$ 0.00
CA9944A	(12/93) LOSS PAYABLE CLAUSE		

	CHANGED VEHICLE	4	\$ 0.00
UNIT NO	DESCRIPTION		
2	2009 DANEN TRAILER VIN: 1D9US20239P283097		
ADDED	LOSS PAYEE CLACKAMAS COUNTY 150 BEAVERCREEK RD OREGON CITY, OR 97045-4302		

	CHANGED VEHICLE	5	\$ 0.00
UNIT NO	DESCRIPTION		
3	1993 FORD RANGER VIN: 1FTCR15U8PPB18402		
ADDED	LOSS PAYEE CLACKAMAS COUNTY 150 BEAVERCREEK RD OREGON CITY, OR 97045-4302		

** THIS IS NOT A BILL - SEE YOUR BILLING STATEMENT. **

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

SCHEDULE

Insurance Company:	
Policy Number:	Effective Date:
Expiration Date:	
Named Insured:	
Address:	
Additional Insured (Lessor): CLACKAMAS COUNTY	
Address: 150 BEAVERCREEK RD OREGON CITY OR 97045	
Designation Or Description Of "Leased Autos": POLICY IN GENERAL	

Coverages	Limit Of Insurance
Liability	\$ Each "Accident"
Comprehensive	Actual Cash Value Or Cost Of Repair Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Collision	Actual Cash Value Or Cost Of Repair Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"
Specified Causes Of Loss	Actual Cash Value Or Cost Of Repair Whichever Is Less, Minus \$ Deductible For Each Covered "Leased Auto"

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Coverage

1. Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.
2. For a "leased auto" designated or described in the Schedule, **Who Is An Insured** is changed to include as an "insured" the lessor named in the Schedule. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
 - a. You;
 - b. Any of your "employees" or agents; or
 - c. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.
3. The coverages provided under this endorsement apply to any "leased auto" described in the Schedule until the expiration date shown in the Schedule, or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

B. Loss Payable Clause

1. **We will pay, as interest may appear, you and the lessor named in this endorsement for "loss" to a "leased auto".**
2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. Cancellation

1. If we cancel the policy, we will mail notice to the lessor in accordance with the Cancellation Common Policy Condition.
2. If you cancel the policy, we will mail notice to the lessor.
3. Cancellation ends this agreement.

- D. The lessor is not liable for payment of your premiums.**

E. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

All terms and conditions of this policy apply unless modified by this endorsement.

Renewal
Nationwide Mutual

23787

02-15-2017 0000000 0056755862 0400659194 0118 RW V

Loss Payee:

Clackamas County
150 Beavercreek Rd
Oregon City, OR 97045-4302

Effective Date: 03/13/2017

Insured:

Total Golf Management Services LLC

19586 Kari Ann Ct
Oregon City, OR 97045-5707

Policy Information:

Policy Number: ACPBA2503267974

Policy Period: From: 03/13/2017 To: 03/13/2018

1993 FORD RANGER 1FTCR15U8PPB18402

Liability Limits: CSL:1000000

Deductibles:—Comp:1000 Coll:1000

Producer: 80247 Phone: (503) 249-7667

Eric L. Weber
4415 NE Sandy Blvd
Portland, OR 97213-1400

Add'l Insured: For Additional Information Contact Producer

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
2/24/2017

PRODUCER WEBER INSURANCE SERVICES 4415 NE Sandy Blvd. Suite 200 Portland, OR 97213 (503)249-7667		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Total Golf Management Services LLC DBA Stone Creek Golf Course 14603 South Stoneridge Dr Oregon City, OR 97045 503-518-4653		INSURERS AFFORDING COVERAGE INSURER A: Nationwide Insurance Co INSURER B: Chubb Insurance Group INSURER C: INSURER D: INSURER E:	NAIC#

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YY)	POLICY EXPIRATION DATE(MM/DD/YY)	LIMITS		
A	Y	GENERAL LIABILITY	ACP 2593267974	3/13/17	3/13/18	EACH OCCURRENCE	\$ 1,000,000	
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	
		<input type="checkbox"/> CLAIMSMADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$	
		<input checked="" type="checkbox"/> Liquor				PERSONAL & ADV INJURY	\$ 1,000,000	
		GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$ 2,000,000	
<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	PRODUCTS - COMP/OP AGG	\$ 2,000,000						
A	Y	AUTOMOBILE LIABILITY	ACP 2593267974	3/13/17	3/13/18	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	
		<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$	
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$	
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$	
<input type="checkbox"/> HIRED AUTOS								
<input type="checkbox"/> NON-OWNEDAUTOS								
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$	
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$	
						AUTO ONLY: AGG	\$	
A	Y	EXCESS/UMBRELLA LIABILITY	ACP 2593267974	3/13/17	3/13/18	EACH OCCURRENCE	\$ 4,000,000	
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE				AGGREGATE	\$	
		<input type="checkbox"/> DEDUCTIBLE					\$	
		<input checked="" type="checkbox"/> RETENTION \$ 10,000					\$	
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS	OTHER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?					E.L. EACH ACCIDENT	\$
		If yes, describe under SPECIAL PROVISIONS below					E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
B		OTHER EPLI	8242-3721	3/13/17	3/13/18	\$3,000,000		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

Clackamas County
150 Beaver Creek Rd
Oregon City, OR 97045

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



80247

RENEWAL

NATIONWIDE MUTUAL INSURANCE CO
ONE NATIONWIDE PLAZA
COLUMBUS OH 432152220

DECLARATIONS

COMMERCIAL INLAND MARINE

Policy Number: **ACP CIM 2593267974**

Named Insured: **TOTAL GOLF MANAGEMENT SERVICES LLC**

Mailing Address: **19586 KARI ANN CT
OREGON CITY**

OR 97045 -5707

Agent: **Eric L. Weber**
Address: **PORTLAND OR 97213 -0000 37 36 80247 0001 CSC**
PRODUCER: **ERIC L. WEBER**
Policy Period: This policy is effective from **03/13/17 to 03/13/18** 12:01 AM Standard time at the above mailing address.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

SCHEDULE

ITEM NO.	DESCRIPTION	COVERAGE AMOUNT	DED. AMT.	RATE	PREMIUM
001	COMPUTER COVERAGE - IM7201 & IM7206	\$30,000	\$1,000	.77	\$232.00
002	CONTRACTORS EQUIPMENT - IM7001, IM7006	\$32,500	\$1,000	1.26	\$411.00

POLICY FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION:

CL0600	0115	ML138	0492	CL5999	0801	IN7282	0204	CL1640	0606
IM3029	0105	CL0136	1105	IM2075	0404	CL0700	1006	CL0100	0399
IM7201	1002	IM7206	0112	13614	0183	IM1668	0494	IM7854	0404
IM7902	0404	IM7001	0404	IM7006	0112	IMA301	0289	17266	1088

LOSS PAYEE: Each loss will be adjusted with the insured. Losses are payable to the insured and: **REFER TO FORM 17266**

TOTAL ANNUAL PREMIUM

\$643.00

PREVIOUS POLICY NUMBER

ACP CIM 2583267974

Countersignature

Date

NATIONWIDE MUTUAL INSURANCE COMPANY

MUTUAL COMPANY CONDITIONS ENDORSEMENT

POLICYHOLDER MEMBERSHIP IN THE COMPANY

(Applicable Only to Policies Issued by Nationwide Mutual Insurance Company in States other than the State of Texas)

Because this policy is issued by Nationwide Mutual Insurance Company (the "Company"), the first named insured listed on the declarations page ("named insured") is a member of the Company issuing the policy while this or any other policy issued by the Company is in force. While a member, the named insured is entitled to one vote only – regardless of the number of policies issued to the named insured – either in person or by proxy at meetings of members of the Company.

The annual meeting of members of the Company will be held each year at the Home Office of the Company in Columbus, Ohio, at 10 a.m. on the first Thursday of April. If the Board of Directors of Nationwide Mutual Insurance Company should elect to change the time or place of that meeting, the Company will mail notice of the change to the member's last known address. The Company will mail this notice at least 10 days in advance of the meeting date.

This policy is non-assessable, meaning that the named insured is not subject to any assessment beyond the premiums required for each policy term.

POLICYHOLDER DIVIDEND PROVISIONS

The named insured is entitled to any Dividends which are declared by the Board of Directors of the Company in accordance with law and which are applicable to coverages provided in this policy.

POLICYHOLDER MEMBERSHIP IN THE COMPANY IN TEXAS

(Applicable Only to Policies Issued by Nationwide Mutual Insurance Company in the State of Texas)

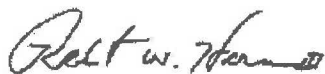
1. MUTUALS – MEMBERSHIP AND VOTING NOTICE. The named insured is notified that, by virtue of this policy, the named insured is a member of the Nationwide Mutual Insurance Company of Columbus, Ohio, (the "Company") and is entitled, as is lawfully provided in the charter, constitution, and by-laws to vote either in person or by proxy in any or all meetings of said Company. Each member is entitled to only one vote regardless of the number of policies owned. The annual meetings of the members of the Company are held in the Home Office, at Columbus, Ohio, on the first Thursday of April, in each year, at 10:00 o'clock a.m.

2. MUTUALS – PARTICIPATION CLAUSE WITHOUT CONTINGENT LIABILITY. No Contingent Liability: This policy is non-assessable. The named insured is a member of the Company and shall participate, to the extent and upon the conditions fixed and determined by the Board of Directors in accordance with the provisions of law, in the distribution of dividends so fixed and determined.

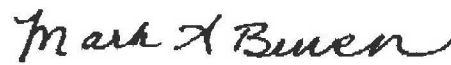
POLICYHOLDER DIVIDEND PROVISIONS

The named insured shall be entitled to participate in a distribution of the surplus of the Company, as determined by its Board of Directors from time to time, after approval in accordance with the provision of the Texas Insurance Code, of 1951, as amended.

IN WITNESS WHEREOF: Nationwide Mutual Insurance Company has caused this policy to be signed by its President and Secretary, and countersigned by a duly authorized representative of the Company.



Secretary



President

**COMMERCIAL INLAND MARINE
FORMS AND ENDORSEMENTS SUMMARY**

Number: **ACP CIM 2593267974**

Period:
From **03/13/17** To **03/13/18**

FORM/ENDORSEMENT	DATE	TITLE
CL0100	0399	COMMON POLICY CONDITIONS
CL0136	1105	AMENDATORY ENDORSEMENT OREGON
CL0600	0115	CERTIFIED TERRORISM LOSS
CL0700	1006	VIRUS OR BACTERIA EXCLUSION
CL1640	0606	CONDITIONAL TERRORISM EXCLUSION
CL5999	0801	AMENDATORY ENDORSEMENT - PREMIUM DUE DATE
IMA301	0289	SCHEDULE
IM1668	0494	LOSS PAYABLE ENDORSEMENT
IM2075	0404	AMENDATORY ENDORSEMENT OREGON
IM3029	0105	AMENDATORY ENDORSEMENT
IM7001	0404	CONTRACTORS EQUIPMENT COVERAGE SCHEDULED EQUIPMENT FORM
IM7006	0112	SCHEDULE OF COVERAGES CONTRACTORS' EQUIPMENT SCHEDULED EQUIP
IM7201	1002	COMPUTER COVERAGE
IM7206	0112	COMPUTER COVERAGE SCHEDULE OF COVERAGES
IM7854	0404	LOSS PAYABLE OPTIONS
IM7902	0404	LOSS PAYABLE SCHEDULE
IN7282	0204	IMPORTANT NOTICE - NOTICE OF OREGON SURCHARGE
ML138	0492	AMENDMENT OF POLICY TERMS - OREGON
13614	0183	SPECIAL CONTINUATION PROVISION
17266	1088	SCHEDULE OF LOSS PAYEES

NATIONWIDE MUTUAL INSURANCE CO

**COMMERCIAL INLAND MARINE
SCHEDULE OF LOSS PAYEES**

Policy Number: **ACP CIM 2593267974**

Policy Period:
From **03/13/17** To **03/13/18**

LOSS PAYEE INFORMATION

CLACKAMAS COUNTY

**150 BEAVERCREEK RD
OREGON CITY OR 97045**

INTEREST : COMPUTER COVERAGE

**BANK OF THE WEST/ DEF951
DIRECT EQUIPMENT FINANCE
12677 ALCOSTA BLVD STE 200
SAN RAMON CA 94583**

INTEREST : 2 CUSHMAN UTILITY VEHICLES

SCHEDULE

This schedule applies to Form Number IM7006

Item #	Description	Amount
1. CUSHMAN UTILITY VEHICLE HAULER 1200G		16,250
2. CUSHMAN UTILITY VEHICLE HAULER 1200G		16,250

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**SCHEDULE OF COVERAGES
CONTRACTORS' EQUIPMENT
SCHEDULED EQUIPMENT FORM**

(The entries required to complete this schedule will be shown below or on the "schedule of coverages".)

PROPERTY COVERED

Scheduled Equipment (Refer to Equipment Schedule)

Catastrophe Limit -- The most "we" pay for loss in any one occurrence is: **"Limit"**
\$ 32,500

COVERAGE EXTENSIONS

Additional Debris Removal Expenses \$ _____

SUPPLEMENTAL COVERAGES

Newly Purchased Property (check one)

Percentage of Catastrophe Limit _____%

Dollar Limit \$ _____

Pollutant Cleanup And Removal \$ _____

COINSURANCE (check one)

80% 90% 100% Other _____%

VALUATION -- Actual Cash Value

DEDUCTIBLE AMOUNT \$ 1,000

ADDITIONAL INFORMATION

All terms and conditions of this policy apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**COMPUTER COVERAGE
SCHEDULE OF COVERAGES**

(The entries required to complete this schedule
will be shown below or on the "schedule of coverages".)

DESCRIBED PREMISES

**Loc.
No.**

LOCATIONS

001 14603 S STONERIDGE DR. OREGON CITY

Check if applicable:

Attach Additional Locations Schedule to schedule more locations

COVERAGE EXTENSIONS

"Limits"

Additional Debris Removal Expenses \$ _____

Emergency Removal _____ days

Emergency Removal Expenses \$ _____

Electrical and Power Supply Disturbance _____

-- 500 Feet Limitation (check one)

Not Waived

Waived

Fraud and Deceit \$ _____

Mechanical Breakdown Coverage _____

SUPPLEMENTAL COVERAGES

Acquired Locations \$ _____

Earthquake Coverage (check one)

Coverage Provided

Coverage Not Provided

Refer To Earthquake, Flood and Sewer Backup Endorsement

Flood Coverage (check one)

Coverage Provided

Coverage Not Provided

Refer To Earthquake, Flood and Sewer Backup Endorsement

Newly Purchased or Leased Hardware \$ _____

Off-Site Computers \$ _____

Pollutant Cleanup and Removal \$ _____

Property In Transit \$ _____

Proprietary Programs and Data Records \$ _____

SUPPLEMENTAL INCOME COVERAGES (cont.)

"Limits"

Off Premises Utility Service Interruption

- Limit \$ _____
- Overhead Transmission Lines Excluded
(check if applicable)
- Waiting Period _____ hours

Property In Transit

\$ _____

Sewer Backup (check one)

- Coverage Provided
- Coverage Not Provided
- Refer To Earthquake, Flood and Sewer Backup
Endorsement

Virus and Hacking Coverage

- Limit Any One Occurrence \$ _____
- Limit Each Separate 12 month Period \$ _____
- Waiting Period _____ hours

DEDUCTIBLE

Deductible Amount

For all covered perils unless a
different deductible is indicated below

\$ **1,000** _____

Earthquake and Volcanic Eruption

\$ _____

"Flood"

\$ _____

"Mechanical Breakdown", "Electrical
Disturbance", and "Power Supply Disturbance"

\$ _____

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE SCHEDULE

(The entries required to complete this schedule will be shown below or on the "schedule of coverages".)

Indicate applicable provision:

- Loss Payable
- Lender's Loss Payable
- Contract of Sale

SCHEDULE

<u>Location Number</u>	<u>Address</u>	<u>Covered Property</u>	<u>Name and Address of Loss Payee</u>
1	14603 S STONER I	COMPUTER COVERA	CLACKAMAS COUNTY
2	12677 ALCOSTA B	CUSHMAN UTILITY	BANK OF THE WEST

All terms and conditions of this policy apply unless modified by this endorsement.
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designation Of Premises (Part Leased To You): 14503 S STONERIDGE DR OREGON CITY, OR 97045-9447
Name Of Person(s) Or Organization(s) (Additional Insured): CLACKAMAS COUNTY 150 BEAVERCREEK RD OREGON CITY, OR 97045
Additional Premium: \$ 35.00
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to provide as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All terms and conditions apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – BUILDING OWNER

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
STANDARD PROPERTY POLICY

SCHEDULE

Premises Number:	1	Building Number:	1 - 6
Building Description: ALL			
Building Owner Name: CLACKAMAS COUNTY			
Building Owner Address: 150 BEAVERCREEK RD OREGON CITY, OR 97045-4302			
Premises Number:		Building Number:	
Building Description:			
Building Owner Name:			
Building Owner Address:			
Premises Number:		Building Number:	
Building Description:			
Building Owner Name:			
Building Owner Address:			
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

The building owner identified in this endorsement is a Named Insured, but only with respect to the coverage provided under this Coverage Part or Policy for direct physical loss or damage to the building(s) described in the Schedule.

All terms and conditions of this policy apply unless modified by this endorsement.

July 16, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of COVID-19 Emergency Business Assistance Program Forgivable Loan Agreement to provide matching funds to increase available funding for grants to the local small business community impacted by the COVID-19 pandemic

Purpose/Outcomes	Approve a COVID-19 Emergency Business Assistance Program Forgivable Loan Agreement between Clackamas County and the State of Oregon to provide Clackamas County with matching funds to expand the amount of funding available for grants to the local small business community impacted by COVID-19.
Dollar Amount and Fiscal Impact	This agreement provides a mechanism for the State of Oregon to provide \$45,000 in matching funds for the County's Emergency Business Assistance Grant Program.
Funding Source	State of Oregon acting through its Business Development Department
Duration	Agreement is effective upon signature by both parties. The full forgivable loan amount will be dispersed to Clackamas County upon signature by both parties.
Previous Board Action	County Administrator Gary Schmidt approved application for this funding opportunity on May 14, 2020, Agenda Item I.2.
Strategic Plan Alignment	1) This grant agreement supports the BCS goal of giving businesses access to innovative tools and programs to help them locate or expand in Clackamas County. Providing grants to businesses impacted by COVID-19 will help them make it through the pandemic so they can reopen under the new normal, and eventually expand when economic times improve. 2) This grant agreement supports County strategic priority of Growing a Vibrant Economy by providing much needed assistance to Clackamas County small businesses so they can remain in business throughout the COVID-19 pandemic.
County Counsel Review	County Counsel Review Date: July 9, 2020 Counsel Initials: ARN
Procurement Review	Was the item processed through procurement? N/A
Contact Person	Laura Zentner, BCS Director (503) 742-4351 Sarah Eckman, BCS – Deputy Director (503) 742-4303
Contract No.	N/A

BACKGROUND:

Business and Community Services has developed a program with local non-profit, Micro Enterprise Services of Oregon (MESO) to provide grants to local small businesses affected by COVID-19. This program helps vulnerable businesses impacted by COVID-19 by providing much needed cash during this very challenging time.

BCS has secured funding for the program in the amount \$420,000. These funds are comprised of:

- \$200,000 in Clackamas County funds (Lottery dollars)
- \$45,000 in State of Oregon Matching Funds (pending signed agreement)
- \$175,000 in State of Oregon Funds to Community Development Financial Institutions (CDFIs) via MESO

The State of Oregon made matching funds available for emergency business assistance grant programs, and BCS was awarded \$45,000 to match a portion of the \$200,000 committed from Clackamas County Lottery dollars.

Adding this funding to our existing dollars increased the amount of grants the County is able to provide to our small businesses (25 employees and under).

The State of Oregon has made a final round of matching funds available for application and BCS is applying for additional matching dollars, since not all of the match was met under our last application.

RECOMMENDATION:

Staff respectfully recommends the BCC approve the forgivable loan agreement with the State of Oregon and authorize BCS Director Laura Zentner to sign on behalf of the County.

ATTACHMENT:

COVID-19 Emergency Business Assistance Program Forgivable Loan Agreement between Clackamas County and the State of Oregon.

Respectfully submitted,

Laura Zentner Type text here

Laura Zentner, CPA
Director, Business & Community Services

**COVID-19 EMERGENCY BUSINESS ASSISTANCE PROGRAM
FORGIVABLE LOAN AGREEMENT**

OBDD Contract Number C2020197

This forgivable loan agreement (“Contract”), dated as of the date the Contract is fully executed, is between the State of Oregon, acting through its Business Development Department (“OBDD”) and Clackamas County (“Recipient”) for capitalizing a COVID-19 Emergency Business Assistance Program sponsored by Recipient and described in Exhibit A (“Program”). This Contract becomes effective only when fully signed and approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Agreement expires 45 days after the Program Completion Deadline. Agreement termination does not extinguish or prejudice OBDD’s right to enforce this Agreement with respect to any default by Recipient that has not been cured.

This Contract includes Exhibit A - Program Description and Requirements.

Pursuant to ORS 285B.266 and OAR Ch. 123, Div. 90, OBDD is authorized to enter into loan agreements and make loans from the Strategic Reserve Fund, including this Contract.

SECTION 1 - FUNDING ASSISTANCE

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, a forgivable loan (the “Loan”) in an aggregate amount not to exceed \$45,000.

SECTION 2 - DISBURSEMENT

- A. Full Disbursement. Upon execution of this Contract and satisfaction of all conditions precedent, OBDD shall disburse the full Loan to Recipient.
- B. Conditions Precedent to Disbursement. The OBDD’s obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its attorneys:
 - (1) This Contract duly signed by an authorized officer of Recipient; and
 - (2) Such other certificates, documents, opinions and information as OBDD may reasonably require.
 - (3) Documentation satisfactory to OBDD that, in addition to the Loan, Recipient has available or has obtained binding commitments for all funds necessary to complete the Program.

OBDD has no obligation unless it has appropriations, limitations, allotments or other expenditure authority sufficient to allow OBDD, in the exercise of its reasonable administrative discretion, to disburse funds in accordance with the terms of this Agreement, and notwithstanding anything in the Agreement, occurrence of such contingency does not constitute a default. Upon occurrence of such contingency, OBDD has no further obligation to disburse funds to Recipient.

SECTION 3 - USE OF LOAN

The Recipient shall use the Loan only for the activities described in Exhibit A. The Recipient may not use the Loan to cover costs scheduled to be paid for by other financing for the Program from another State of Oregon agency or any third party, or to retire any Recipient debt.

SECTION 4 - LOAN REPAYMENT; LOAN FORGIVENESS

- A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. The obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Program, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Program or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. No Interest. The Loan bears no interest.
- C. Loan Forgiveness. OBDD shall forgive repayment and cancel the Loan by notice to Recipient, as soon as it determines that all of the following conditions are met:
- (1) Recipient has completed the Program no later than the Program Completion Deadline, which date is 45 days after receipt of the Loan.
 - (2) No Event of Default has occurred and continues.
 - (3) No later than 30 days after the Program Completion Deadline, Recipient submits the reporting required in Exhibit A, in form and substance satisfactory to OBDD.
- D. Partial Loan Forgiveness; Maturity Date. If Recipient is unable to award grants to businesses (including matching funds) as required by this Contract, equal to the full amount of the Loan, OBDD will forgive that portion of the Loan meeting all the conditions in Subsection C above and notify Recipient in writing. Recipient shall pay all unforgiven Loan principal to OBDD not later than 30 days after receiving notice of partial forgiveness, unless otherwise provided by OBDD in writing.

SECTION 5 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Program related to the ability of Recipient to make all payments and perform all obligations required by this Contract.
- B. Public Notification. Recipient will reasonably acknowledge in some public fashion, such as in public statements, that the Program was funded in part with State of Oregon General Funds and Lottery Funds administered by the Oregon Business Development Department.
- C. Compliance with Laws. Recipient will comply with the requirements of all applicable federal, state and local laws, rules, regulations, and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings.

- D. Records Retention. Recipient will keep proper books of account and records on all activities associated with the Loan, including, but not limited to grant awards and payments, instruments, agreements and other supporting financial records documenting the use of the Loan, including all grant applications and supplemental documentation provided by business applicants. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles and will retain these books of account and records from the later of the date of this Contract until three years after the Program Completion Deadline or the date that all disputes, if any, arising under this Contract have been resolved.
- E. Inspection. The Recipient shall permit OBDD, and any party designated by OBDD, the Oregon Secretary of State's Office, the federal government and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the Program. The Recipient shall supply any Program-related information as OBDD may reasonably require.
- F. Notice of Event of Default. The Recipient shall give OBDD prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- G. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors, that is related to this Program; however, this provision is not to be construed in a way that Recipient's obligations would constitute debt that violates Section 10, Article XI of the Oregon Constitution.

SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

- A. Organization and Authority.
- (1) The Recipient is a county, validly organized and existing under the laws of the State of Oregon.
 - (2) The Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive funding for the Program.
 - (3) This Contract has been authorized by an ordinance, order or resolution of Recipient's governing body if required by its organizational documents or applicable law.
 - (4) This Contract has been duly executed by Recipient, and when executed by OBDD, is legal, valid and binding, and enforceable in accordance with their terms.
- B. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Program, or the ability of Recipient to perform all obligations required by this Contract. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit A, is true and accurate in all respects.

- C. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Program or the ability of Recipient to perform all obligations required by this Contract.
- D. Governmental Consent. The Recipient has obtained or will obtain all approvals, notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the undertaking and completion of the Program.

SECTION 7 - DEFAULT

Any of the following constitutes an “Event of Default”:

- A. Payment Failure. The Recipient fails to make any Loan payment when due.
- B. Misleading Statement. Any material false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Loan or the Program.
- C. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through B of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 8 - REMEDIES

Upon the occurrence of an Event of Default, OBDD may pursue any remedies available under this Contract, at law or in equity. Such remedies include, but are not limited to, termination of OBDD’s obligations to make the Loan or further disbursements, return of all or a portion of the Loan amount, and declaration of ineligibility for the receipt of future awards from OBDD. OBDD may also recover all or a portion of the outstanding balance due under the Loan from Recipient by deducting the amount from any payment due to Recipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law. If, as a result of an Event of Default, OBDD demands return of all or a portion of the Loan amount, Recipient shall pay the amount upon OBDD’s demand. OBDD reserves the right to turn over any unpaid debt from this Contract to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. The remedies are cumulative and not exclusive of any remedies provided by law.

In the event OBDD defaults on any obligation in this Contract, Recipient’s remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD’s obligations.

SECTION 9 - TERMINATION

OBDD may terminate this Contract with notice to Recipient under any of the following circumstances:

- A. The Oregon Department of Administrative Services notifies OBDD of an anticipated shortfall in available revenues.
- B. OBDD fails to receive sufficient funding, appropriations or other expenditure authorizations to allow OBDD, in its reasonable discretion, to continue making payments under this Contract.
- C. There is a change in federal or state laws, rules, regulations or guidelines so that the Program funded by this Contract is no longer eligible for funding.

This Contract may be terminated at any time by mutual written consent of the parties.

SECTION 10 - MISCELLANEOUS

- A. No Implied Waiver. No failure or delay on the part of OBDD to exercise any right, power, or privilege under this Contract will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- B. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). 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.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- C. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses listed in Exhibit A, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

- D. Amendments. This Contract may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.
- E. Severability. If any provision of this Contract will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.
- F. Successors and Assigns. This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and assigns, except that Recipient may not assign or transfer its rights, obligations or any interest without the prior written consent of OBDD.
- G. Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.
- H. Integration. This Contract (including all exhibits, schedules or attachments) constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- I. No Third Party Beneficiaries. OBDD and Recipient are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- J. Survival. All provisions of this Contract that by their terms are intended to survive shall survive termination of this Contract.
- K. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.
- L. Attorney Fees. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract will be entitled to recover from the other its reasonable attorney fees and costs and expenses at trial, in a bankruptcy, receivership or similar proceeding, and on appeal. Reasonable attorney fees shall not exceed the rate charged to OBDD by its attorneys.
- M. Promotional Use of Recipient Information. Recipient agrees that OBDD may use Recipient and information provided to the OBDD by Recipient in the promotion of OBDD's programs and services.
- N. Public Records. OBDD's obligations under this Contract are subject to the Oregon Public Records Laws.

SIGNATURE PAGE FOLLOWS

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Business Development Department



CLACKAMAS COUNTY

By: _____
Chris Cummings, Interim Director
Business Oregon

By: _____
Laura Zenter, Director

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson per email dated 8 June 2020
Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - PROGRAM DESCRIPTION AND REQUIREMENTS

OBDD

State of Oregon, acting by and through its
Business Development Department,
775 Summer Street NE Suite 200
Salem OR 97301-1280

Contract Administrator: Matthew Mattia

Telephone: 503-856-2306

Email: matthew.mattia@oregon.gov

Recipient

Clackamas County

150 Beavercreek Road Room 419
Oregon City OR 97045

Contact: Jon Lagarza, Business and Economic
Development Coordinator

Telephone: 503-655-8581

Email: jlegarza@clackamas.us

Program Requirements

Recipient will operate a COVID-19 Emergency Business Assistance Fund that provides one-time-only grants to individual businesses affected by the COVID-19 epidemic, as described below. Recipient will provide its own funds for the Program to match the Loan amount, in at least a 1:1 ratio.

Eligible Business Applicants

1. Businesses must be adversely affected economically in either one of the following two categories:
 - Those for-profit and non-profit (limited to 501(c)(3) corporations) businesses that were prohibited from operation as directed by the Governor of Oregon’s Executive Order No. 20-12.
 - Those eligible for-profit businesses that can demonstrate a one month decline in revenue greater than 50% in the month of March 2020 or April 2020 as compared against sales in the month of January 2020 or February 2020. Those 501(c)(3) non-profit businesses that can demonstrate a decline in revenue greater than 50% across the months of March 2020 and April 2020 as compared against the same period of time in 2019.
2. Businesses must have 25 or fewer employees.
3. At the time of a grant award from Recipient’s Program, businesses must have been unable to access federal CARES Act funds or other federal funds including:
 - Small Business Administration's Paycheck Protection Program (PPP);
 - Economic Injury Disaster Loan Emergency Advance program (EIDL); or
 - Other federal programs for emergency pandemic funding.

Ineligible Business Applicants

Ineligible applicants include the following categories of businesses:

1. Passive real estate holding companies and others holding passive investments.
2. Non-profit entities that do not have federal 501(c)(3) status.
3. Businesses that fail to certify they are not delinquent on federal, state or local taxes that were due before 1 April 2020.
4. Businesses that do not certify they are in compliance and will comply with all federal, state and local laws and regulations.
5. Businesses not headquartered and with principal operations in Oregon.

6. Businesses not registered to do business in Oregon (Secretary of State Business Registry verification) if such registration is required.

Program Access

It is intended that these state funds are equally accessible to all Oregonians, so Recipient will conduct a robust marketing program that reaches out locally to businesses owned by members of historically disadvantaged population groups (Asian, Black, Hispanic, Native American, and Women Owned Businesses) at least to the extent described in its proposal to OBDD, and must:

- Utilize program marketing materials and application materials provided by OBDD and made available in languages that are representative of the local population.
- Conduct a stepped marketing program that reaches out and markets to members of historically disadvantaged population groups in advance of marketing to the general public.

Business Applications and Support Documentation

In general, Recipient will, applying its best judgment in individual cases, ensure that businesses:

- Self-certify they have not received CARES Act PPP or SBA EIDL assistance as of the date of application.
- Demonstrate:
 - That they were prohibited from operation as directed by Executive Order No. 20-12; or
 - That they had a sales or revenue decrease of 50% or more in the month of March or April 2020, as compared against the sales or revenues of January or February 2020, or for non-profit business, as compared against the same period in 2019.
- Demonstrate they are headquartered and have principal operations in Oregon.
- Self-certify they are not subject to any of the ineligibility criteria.
- Self-certify that the business and its operations are, and will, remain compliant with all local, state and federal laws.
- Provide business, financial and ownership information sufficient to determine and verify eligibility.

Recipient will use a standard Grant Application Form for businesses, including a statement that applicant agrees that State may pursue collection efforts for fraudulent or ineligible grant awards, as supplied by OBDD in multiple languages.

Grant Award Amounts

Awards to eligible businesses will be made as a grant. The amount of the grant will be the greater of two figures, subject to an applicant's ability and choice to provide documentation to support the second figure: the first based on the number of employees before the COVID-19 crisis (as of 29 February 2020); or the second based on the documented amount of fixed operating expenses for the 60 day period of 1 January through 29 February 2020:

- 0-5 employees
 - \$2,500, or
 - 60-day fixed expenses up to a maximum of \$5,000.

- 6-10 employees
 - \$5,000, or
 - 60-day fixed expenses up to a maximum of \$10,000.
- 11-15 employees
 - \$7,500, or
 - 60-day fixed expenses up to a maximum of \$15,000.
- 16-20 employees
 - \$10,000, or
 - 60-day fixed expenses up to a maximum of \$20,000.
- 20-25 employees
 - \$12,500, or
 - 60-day fixed expenses up to a maximum of \$25,000.

Not less than 50% of all Recipient's awards must be made to Sole Proprietor owners (with or without other employees).

Review of Applications

Recipient must confirm that all information and certifications provided by business applicants meet all Program requirements, including but not limited to:

- Demonstrate:
 - That the business applicant was prohibited from operation as directed by Executive Order No. 20-12; or
 - That the business applicant had a sales or revenue decrease of 50% or more in the month of March or April 2020, as compared against the sales or revenues of January or February 2020, or for non-profit business, as compared against the same period in 2019.
- Demonstrate that the business applicant is headquartered and with principal operations in Oregon.
- Provide sufficient documentation of employee head count.

Reporting of Awards

To assist in preventing multiple grants to any business, Recipient must send notification of every award to the OBDD Contract Administrator no later than 24 hours after making the award decision, utilizing a Pre-award report form provided by OBDD.

Within 30 days of fully deploying the Loan, or 30 days after the Project Completion Deadline, whichever occurs first, Recipient will deliver a final report on the Program and information on the grant recipients on a form provided by OBDD, which will include but is not limited to:

- Number of applications received
- A listing of the direct costs incurred in the administration of the Program (payroll, marketing, et cetera)

- Number of awards made
 - Awards by #, \$ and % of allocation by voluntary reported demographic information
 - Awards by #, \$, and % of allocation by regions as defined by OBDD (i.e., Central, Coastal, Eastern, Portland, Southern, and Valley)
 - Award by #, \$, and % of allocation by company size / number of employees (0-5, 6-10, et cetera)
 - Award by #, \$ and % of allocation to sole proprietors
 - Total amount of Recipient's matching funds applied to awards made under the Program, by \$ and % match to the Loan.
- Individual business grant recipient data
 - Name of company
 - Employer Identification Number (EIN)
 - Oregon Business Identification Number (BIN)
 - Address of company
 - NAICS industry code
 - Amount of award
 - Legal business entity type
 - # of employees as of 29 February 2020
 - Reported # of jobs retained due to the award
 - For owners of businesses:
 - First and last name
 - Percentage of ownership
 - Demographics as reported in a demographic questionnaire for all owners with 20% or more ownership.
- A certification by Recipient that no Loan proceeds were used to retire any of Recipient's debt.

Tax Responsibility

Recipient is responsible for all federal or state taxes applicable to any portion of the Loan that is forgiven. Recipient is responsible to administer all federal or state tax requirements applicable to grant awards, including delivery of IRS Form 1099-G to grant recipients.

Program Completion Deadline

Recipient must complete grant awards to eligible businesses no later than the Program Completion Deadline. If Recipient is unable to complete grant awards to businesses (including matching funds) in its aggregate Loan amount by the Program Completion Deadline, Recipient shall return all unforgiven Loan principal to OBDD as provided by Section 4 of the Contract.



July 16, 2020

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of Local Grant Agreement Amendment #1 between Clackamas County and
 Micro Enterprise Services of Oregon (MESO) for MESO to provide
 a small grants program on behalf of Clackamas County
in an effort to support the local business community impacted by the COVID-19 pandemic

Purpose/Outcomes	Approve a Local Grant Agreement Amendment #1 between Clackamas County and MESO for MESO to provide grants to the Clackamas County small business community. The amendment will add \$45,000 in new funding to the agreement, received as matching funds, from the State of Oregon Small Business Relief Fund. An additional \$4,500 in grant administration fees will also be added to the amendment to pay for MESO's services.
Dollar Amount and Fiscal Impact	Clackamas County Business and Community Services (BCS) will provide an additional \$49,500 to MESO to fund the above listed programs.
Funding Source	\$45,000 is in matching funds from the State of Oregon and \$4,500 is from Clackamas County Lottery dollars currently budgeted in BCS' budget.
Duration	May 21, 2020 through May 31, 2021
Previous Board Action	The original agreement with MESO was signed by the BCC on May 21, 2020, Agenda Item # E.1.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1) This grant agreement amendment supports the BCS goal of giving businesses access to innovative tools and programs to help them locate or expand in Clackamas County. Providing grants to businesses impacted by COVID-19 will help them make it through the pandemic so they can reopen under the new normal, and eventually expand when economic times improve. 2) This grant agreement amendment supports County strategic priority of Growing a Vibrant Economy by providing much needed assistance to Clackamas County small businesses so they can remain in business throughout the COVID-19 pandemic.
County Counsel Review	County Counsel Review Date: July 13, 2020 - Pending Counsel Initials: ARN - Pending
Procurement Review	Was the item processed through procurement? N/A
Contact Person	Laura Zentner, BCS Director (503) 742-4351 Sarah Eckman, BCS – Deputy Director (503) 742-4303
Contract No.	N/A

BACKGROUND:

Business and Community Services has developed a program in partnership with MESO to provide economic and social assistance to Clackamas County small businesses affected by COVID-19. This program will help vulnerable businesses by providing much needed cash, as well as technical support to develop new talents and skills that make them more marketable.

Our original agreement with MESO provided \$200,000 in funding for MESO to provide grants to Clackamas County small businesses impacted by the pandemic. Since the original award, an additional \$45,000 in State of Oregon matching funds was awarded to the County to increase the total dollars available for grants. In addition to these funds, MESO received an additional \$175,000 in funding from the State that is specifically for supporting Clackamas County businesses.

Collectively, our original \$200,000 in funding has now more than doubled. Our grant award program is underway and the \$420,000 in funding will provided needed financial support to our local business community.

RECOMMENDATION:

Staff respectfully recommends the BCC approve the grant agreement amendment #1 with MESO.

ATTACHMENT:

Local Grant Agreement Amendment between Clackamas County and Micro Enterprise Services of Oregon (MESO)

Respectfully submitted,

Laura Zentner

Laura Zentner, CPA
Director, Business & Community Services