



Elizabeth Comfort
Finance Director, Interim

Department of Finance

Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

June 25, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Lease for 16201 SE McLoughlin Boulevard with
C. G. F. Family Limited Partnership for the Oak Lodge Library

Purpose/Outcomes	Execute extension of lease for 16201 SE McLoughlin Boulevard
Dollar Amount and Fiscal Impact	Monthly rent \$7,074.00; total of \$84,888.00 for FY 2020/2021
Funding Source	Clackamas County Library Service District Revenue
Duration	Lease term is for July 1, 2020, through June 30, 2021
Previous Board Action	Current lease approved on June 27, 2019, Consent Item B.2
County Counsel Review	Approved with signature on June 27, 2019
Strategic Plan Alignment	1. Supports providing well-maintained facilities for County services.
Contact Person	Jeff Jorgensen, Director, Facilities Management, 503.734.6248

BACKGROUND:

Clackamas County currently leases the building at 16201 SE McLoughlin Boulevard from C. G. F. Family Limited Partnership for the Oak Lodge Library. The past June 30, 2000 lease had been extended fourteen (14) times. This is a new lease document expires on June 30, 2021.

The Oak Lodge Library is one of thirteen (13) Clackamas County public libraries currently serving the citizens of this county, with the next closest libraries located in Gladstone and Milwaukie. The Oak Lodge Library has operated in this location since 1994.

Business and Community Services has hired an architectural firm to work through a community-driven process to evaluate potential locations for a new facility to be constructed in the near future. Until a new facility is constructed, the library will continue to operate out of its current location.

RECOMMENDATION:

Staff recommends the Board approves and authorizes the Chair of the Board to execute the extension of lease.

Sincerely,

Elizabeth Comfort,
Director, Finance

LEASE

This Lease is made this ___ day of _____, 2020, by and between CLACKAMAS COUNTY, a political subdivision of the State of Oregon, hereinafter called "Lessee" and C.F.G. FAMILY LIMITED PARTNERSHIP hereinafter called "Lessor."

LEASE TERM:

Lessor does hereby let and lease the premises hereinafter described (the "Premises") to the Lessee to have and to hold the same for a term beginning July 1, 2020 and ending June 30, 2021.

Ninety (90) days before the end of this Lease, Lessee shall notify Lessor, in writing, of its desire to either renew the Lease or vacate the Premises. The Lease may be renewed for additional periods upon such terms as are agreed to by the parties in writing.

PREMISES:

The Premises is described as 16201 SE McLoughlin Blvd. Oak Grove, Clackamas County, Oregon. The Premises consist of 8,722 square feet of Building "A" located on Assessor's Map T2S, R1E, Section 12DD, Tax Lot 00800 and thirty-five percent (35%) of the parking lot located on Assessor's Map T2S, R1E, Section 12DC, Tax Lot 03600. attached hereto as Exhibit A and incorporated by this reference herein.

BASE RENT:

Lessee agrees to pay as rent for the Premises the sum of seven thousand seventy four dollars (\$7,074.00) per month for the entire lease term.

Rent not paid when due shall, after ten (10) days written notice, bear simple interest at the rate of one-and-one-half percent (1.5%) per month until paid.

If this Lease is terminated for any reason other than Lessee's default or failure to perform, Lessor shall reimburse to Lessee the pro rata amounts paid on the unexpired term of this Lease.

SECURITY DEPOSIT:

Lessor acknowledges that Lessee paid the sum of \$4,542.71 as a security deposit upon execution of the original lease term June 1, 1989. Said security deposit shall continue to be kept by Lessor for the purposes described herein. Lessor may apply said security deposit to the cost of performing any obligation which Lessee fails to perform within the time required by the lease, but such application by the Lessor shall not be the exclusive remedy for Lessee's default. If the security deposit is applied by Lessor, Lessee shall on demand pay the sum necessary to replenish the security deposit to the original to the original amount, if said demand is made before termination of Lessee's tenancy. To the extent not applied by Lessor to cure defaults by Lessee, the security deposit shall be applied against the rent payable for the last months' rent, any part or all of the security deposit that has not been applied by the Lessor pursuant to this provision shall be returned to Lessee within thirty (30) days after the end of the Lease.

POSSESSION:

Lessee shall be entitled to full use and possession of the Premises for the entire Lease term.



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Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Lease for the Clackamas County Extension and 4-H Service District Buildings with Clackamas County

Purpose/Outcomes	Execute lease for the Clackamas County Extension and 4-H Service District
Dollar Amount and Fiscal Impact	Monthly rent \$2,660.00; total \$31,920.00 for FY 2020/2021.
Funding Source	The Extension and 4-H Service District tax base provides funding to pay all lease and allocated facility costs.
Duration	Lease term is for July 1, 2020, through June 30, 2022
Previous Board Action	Current lease approved on June 28, 2018, Consent Item C.5
County Counsel Review	Approved with signature on June 28, 2018
Strategic Plan Alignment	1. Supports adult and youth educational activities. 2. Supports economic vitality and environmental health.
Contact Person	Jeff Jorgensen, Director, Facilities Management, 503.734.6248

BACKGROUND:

Clackamas County currently leases two buildings at 200 and 174 Warner Milne Road, Oregon City, to house the Oregon State University Extension Service faculty, staff, and volunteers which work alongside local partners to provide educational workshops, activities, and services tailored to the unique industries, natural resources and citizens of Clackamas County.

The Extension Service conducts research and shares research-based education to improve economic vitality and promote personal and environmental health. Vital services and educational activities include 4-H youth services, family and community health, forestry and natural resources, master gardener programs, area small farms, woodland management, and food preparation and preservation outreach. These current facilities continue to provide basic support for these programs by providing offices, training, and storage space with convenient access to volunteers, clients, and the public.

The current lease expires on June 30, 2020. The Extension Service continues to plan and investigate options to construct a new facility to house current and future programs and support critical county recovery services in the event of major disasters and catastrophes.

RECOMMENDATION:

Staff recommends the Board approves and authorizes the Chair of the Board to execute this lease.

Sincerely,

Elizabeth Comfort,
Director, Finance

LEASE

This Lease is made this ___ day of _____, 20___, by and between CLACKAMAS COUNTY, a political subdivision of the State of Oregon, hereinafter called "Lessor" and the Clackamas County Extension and 4-H Service District, a county service district, hereinafter called "Lessee".

The parties have agreed as follows:

LEASE TERM:

In consideration of the agreements herein contained, the Lessor does hereby let and lease the premises hereinafter described to the Lessee to have and to hold the same for a term beginning July 1, 2020 and ending June 30, 2022.

Ninety (90) days before the end of this Lease, Lessee shall notify Lessor, in writing, of its desire to either renew the Lease or vacate the premises. The Lease may be renewed for additional periods upon such terms as are agreed to by the parties in writing.

PREMISES:

The two premises subject to this Lease are situated at 174 and 200 Warner Milne Road, Oregon City, Clackamas County, Oregon (collectively referred to as the "premises"). The leased premises consist of a building containing approximately 3,420 square feet, an annex containing approximately 1,792 square feet, totaling 5,212 square feet, and the adjacent parking lot located on Clackamas County's Red Soils Campus, Assessor's Map T3S, R2E, Section 05C, Tax Lot 00812E1. Lessee acknowledges that it has examined the premises and agrees to accept the premises in "as-is" condition, and that Lessor has made no representations or warranties regarding the condition of the premises or its fitness for any particular use.

BASE RENT:

Monthly rent for the property is two thousand six hundred sixty dollars (\$2,660.00).

Rent not paid when due shall, after ten (10) days' written notice, bear simple interest at the rate of one-and-one-half percent (1.5%) per month until paid.

USE AND ENJOYMENT:

Lessor covenants that Lessee shall be entitled to possession of the premises for the operation of Oregon State University Extension Service programs. Lessee covenants not to use the premises for any other purpose without Lessor's prior written consent, or for any unlawful purpose. Lessee shall not allow the creation of any nuisance upon the premises nor create any nuisance upon the same.

ADDITIONAL RENT:

Lessee shall be responsible to Lessor for charges for electrical services, natural gas, water/sewer, garbage and recycling service, insurance costs, heating/ventilation/air conditioning maintenance and repair, grounds maintenance, fire and life safety inspections and maintenance, and labor and materials for building repair including, but not limited to, plumbing and janitorial service. All charges will be billed by Lessor to Lessee as additional rent on a quarterly basis, due and payable within thirty (30) days of invoice receipt.

POSSESSION:

Lessee shall be entitled to full use and possession of the premises for the entire Lease term unless the Lease is terminated as provided herein.

PROPERTY TAXES:

It is understood that Lessee is an agricultural education extension service district and, therefore, is entitled to an exemption of property taxes upon timely application and approval by the Clackamas County Assessor and Tax Collector's Office. The rent payable as described above has been established to reflect the savings resulting from this exemption. If an exemption from property taxes is not allowed, Lessee is solely responsible for payment of property taxes.

INSPECTION:

Lessor shall have the right personally and through Lessor's agents and workmen to enter into and upon the premises at any reasonable time to perform building maintenance, inspect the premises, and examine the condition thereof.

ALTERATIONS:

Lessee accepts premises in an "as is" condition. Lessee will make no alterations to the premises without express written consent of Lessor.

All alterations undertaken by Lessee shall be at Lessee's sole expense. Any alterations or improvements by Lessee that cannot reasonably be removed by Lessee without damaging the premises shall become the property of the Lessor upon termination of this Lease.

SIGNS:

No signs, awnings, antennas, or other apparatus shall be painted on or attached to the building, nor any thing placed on the exterior of the premises without Lessor's written approval, which shall not be unreasonably withheld. All signs installed by Lessee shall comply with Lessor's standards for signs and all applicable codes and ordinances, and all signs and sign hardware shall be removed upon termination of this Lease, with the sign location restored to its former state unless Lessor elects to retain all or any portion thereof.

MAINTENANCE:

All maintenance and repairs on or around the leased premises shall be performed by Lessor, subject to reimbursement by Lessee, and done in such a way as to interfere as little as reasonably possible with the use of the premises by the Lessee.

Notwithstanding the above term, Lessee shall maintain premises in a neat condition, free of trash and debris, in good order and repair.

Lessee shall promptly notify Lessor of any necessary repairs and shall, if necessary to protect the leased premises from imminent damage, prior to such notice, arrange for necessary emergency repairs. Payment for emergency repairs shall be the responsibility of Lessor.

LIEN CLAIMS AND LIABILITY:

Lessee shall not allow any liens to attach to the building or Lessee's interest in the premises as a result of any alterations or modifications done at Lessee's request or obligations or judgments of Lessee unrelated to the premises. Any labor or materials provided or construction done by Lessee at Lessor's request shall be deemed to have been provided by Lessor who shall be solely responsible for any liens or judgments arising from such provision or construction.

PLACE OF PAYMENT AND NOTICE:

Any notice to which Lessor shall be entitled under this Lease shall be delivered or sent to Clackamas County Facilities Management, 1710 S Red Soils Court #200, Oregon City, OR 97045. Notice for Lessee shall be mailed to 200 Warner Milne Road, Oregon City, OR 97045. Place for notices may be changed by written notice from the party changing address.

INDEMNIFICATION:

Lessee agrees to indemnify, defend, and hold harmless the Lessor, their officers, agents, and employees against all liability, loss, and costs arising from actions, suits, claims, or demands, except when due to Lessor's sole negligence, arising from performance of this Lease and the use of the premises.

Lessee shall be responsible for insuring its personal property and trade fixtures located on the premises and any alterations or tenant improvements it has made to the premises. Neither Lessor nor Lessee shall be made liable to the other for any loss or damage caused by water damage, sprinkler leakage, or any of the risks that are or could be covered by a standard all risk insurance policy with an extended coverage endorsement.

LIABILITY INSURANCE:

Lessee shall procure and maintain during the term of the Lease the following insurance at Lessee's cost: commercial general liability policy (occurrence version) in a responsible company with coverage for bodily injury and property damage liability, personal and advertising injury liability, and medical payment with a general aggregate limit of not less than two million dollars (\$2,000,000) and a per occurrence limit of not less than one million dollars (\$1,000,000). Such insurance shall cover all risks arising directly or indirectly out of Lessee's activities on or any condition of the Property whether or not related to an occurrence caused or contributed to by Lessor's negligence. Such insurance shall protect Lessee against the claims of Lessor on account of the obligations assumed by Lessee under Indemnification, and shall name Lessor as an additional insured. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days' written notice to Lessor before any change or cancellation shall be furnished to Lessor before Lessee's occupancy of the Property.

NO ATTORNEY FEES

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

TOTAL OR PARTIAL DESTRUCTION:

If the leased property is partly damaged, the property shall be repaired by Lessor at Lessee's expense. Repairs shall be accomplished with all reasonable dispatch subject to interruptions and delays from labor disputes and matters beyond the control of Lessor.

If the property is destroyed or damaged such that the cost of repair exceeds fifty percent of the value of the structure before the damage, either party may elect to terminate the Lease as of the date of the damage or destruction by notice given to the other in writing not more than ten (10) days following the date of damage. In such event all rights and obligations of the parties shall cease as of the date of termination. If neither party elects to terminate, Lessor shall proceed to restore the property to substantially the same form as prior to the damage or destruction. Work shall be commenced as soon as reasonably possible and thereafter shall proceed without interruption except for work stoppages on account of labor disputes and matters beyond Lessor's reasonable control.

Rent shall not be abated during the repair of any damage to the extent the property is untenantable.

HAZARDOUS SUBSTANCES:

Lessee shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed or, or otherwise released on or under the premises. Lessee may use or otherwise handle on the premises only those Hazardous Substances typically used in the prudent and safe operation of the program. Lessee may store such Hazardous Substances on the premises only in quantities necessary to satisfy Lessee's reasonably anticipated needs. Lessee shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the premises. The term *Environmental Law* shall mean any federal, state, or local statute, regulation, or ordinance, or any judicial or other governmental order pertaining to the protection of health, safety, or the environment. The term *Hazardous Substance* shall mean any hazardous, toxic, infectious, or radioactive substance, waste, or material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

ASSIGNMENT AND SUBLETTING:

Lessee shall not have the right to assign this Lease without the written consent of Lessor.

HOLDING OVER:

If Lessee shall hold over and remain in possession of said premises after expiration of this Lease without any written lease actually being made, such holding over shall not be deemed to operate as a renewal or extension of this Lease but shall only create a month-to-month tenancy which may be terminated at any time by Lessor upon sixty (60) days' notice to Lessee.

WAIVER:

Any waiver of any breach of covenants herein contained to be kept and performed by Lessee or Lessor shall not be deemed or considered to be a continuing waiver, and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising any other rights as to any succeeding breach, either of the same condition or covenant or otherwise.

TERMINATION AND BREACH:

This Lease can be terminated by either party with ninety (90) days' written notice.

This Lease may be terminated by Lessor for the following reasons upon thirty (30) days' written notice to Lessee: (1) for convenience; (2) if Lessor fails to receive expenditure authority sufficient to allow Lessor, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease; or (3) if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.

If Lessee fails to pay additional rent by the final day of the month in which it is due, Lessor may terminate this Lease by sixty (60) days' written notice thereof to Lessee, without waiver of any rights Lessor may have to initiate legal proceedings to recover any costs due and payable, or other damages or relief. Within sixty (60) days of receipt of said notice, Lessee shall vacate the premises.

If Lessee defaults in performing its obligations under this Lease, other than payment of operating costs, Lessor may make any payment or perform any obligation which Lessee has failed to perform after not less than ten (10) days' written notice to Lessee of Lessor's intention to pursue this remedy (except in cases of emergency, where no such prior notice shall be required), in which case Lessor shall be entitled to recover from Lessee upon demand all amounts so expended.

If Lessee breaches any covenants or conditions of this Lease, other than payment of operating costs, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessor claiming a default by Lessee and Lessor's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessee must commence correction within such period and thereafter diligently pursue the correction to completion), Lessor may terminate this Lease by sixty (60) days' written notice thereof to Lessee, without waiver of any rights Lessor may have to initiate legal proceeding to recover damage or other relief. Within sixty (60) days of receipt of such notice, Lessee shall vacate the premises.

If Lessor breaches any covenants or conditions of this Lease, other than payment of operating costs, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessee claiming a default by Lessor and Lessee's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessor must commence correction within such period and thereafter diligently pursue the correction to completion), Lessee may terminate this Lease by sixty (60) days' written notice thereof to Lessor, without waiver of any rights Lessee may have to initiate legal proceeding to recover damage or other relief. Within sixty (60) days of receipt of such notice, Lessee shall vacate the premises.

The rights and remedies specified in this section shall be non-exclusive. Either party's right to terminate this Lease for default as provided herein shall not be that party's sole remedy, and such party may exercise any other right or remedy provided in this Lease or otherwise available under applicable law.

SURRENDER:

On expiration or early termination of this Lease, Lessee shall deliver all keys to Lessor and surrender the premises clean and in the same condition as at the commencement of the term subject only to reasonable wear and tear from ordinary use. Lessee shall remove all of its furnishings and trade fixtures

that remain its property and restore all damage resulting from such removal. Failure to remove shall be an abandonment of the property, and Lessor may dispose of it in any manner without liability.

NON-WAIVER OF GOVERNMENTAL RIGHTS:

Subject to the terms and conditions of this Lease, Lessor is specifically not obligating itself with respect to any discretionary action relating to the premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

LIMITATION OF LIABILITIES:

This Lease is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Neither party shall be liable for any indirect, incidental, consequential or special damages under this Lease or any damages of any sort arising solely from the termination of this Lease in accordance with the non-default termination provisions set forth above.

LESSOR

CLACKAMAS COUNTY BOARD
OF COUNTY COMMISSIONERS

Jim Bernard, Chair

Date

LESSEE

Clackamas County Extension and 4-H Service
District

Jim Bernard, Chair

Date

Approved as to form:



Office of County Counsel

06/16/2020

Date

USE AND ENJOYMENT:

Lessor covenants that Lessee shall be entitled to possession of the Premises for government offices and related purposes. Lessee covenants not to use the Premises for any other purpose without Lessor's prior written consent, or for any unlawful purpose. Lessee shall not allow the creation of any nuisance upon the Premises nor create any nuisance upon the same.

OPERATING COSTS:

Lessee shall be responsible for telephone, electricity, and natural gas services to the Premises. Lessor shall be responsible for water, sewer, landscape, ice and snow removal and garbage services to the Premises.

PROPERTY TAXES:

Lessee is applying for a property tax exemption on the property described above under provisions of ORS 307.112. If the property tax exemption is granted, Lessee and Lessor agree that any tax savings resulting from the exemption shall inure solely to the benefit of Lessee. The rent payable by Lessee has been established to reflect the savings resulting from the exemption granted in ORS 307.112.

ASBESTOS, CHEMICALS, AND OTHER MATERIALS AND CONDITIONS RELATING TO SAFE WORK ENVIRONMENT:

1. Lessor assures that the leased Premises are safe, healthful, and in compliance with all state and federal Occupational Safety and Health Administration (OSHA) rules and regulations, and all other state structural, building, fire, and specialty code requirements.
2. If conditions pre-exist, or arise, which are determined to be violations of any state or federal OSHA rule or regulation, or any specialty code requirement, Lessor will be allowed a reasonable period in which to modify and correct the violation to achieve compliance. If Lessee deems that there is any imminent danger to employees or to the public, Lessor must correct the violations immediately. Lessor shall make every effort to achieve full compliance within thirty (30) days.

In the event Lessor does not correct any condition as required in items 1 and 2 above, Lessee has the right to terminate this Lease immediately, and shall have no further responsibility to Lessor under this Lease agreement.

INSPECTION:

Lessor shall have the right personally and through Lessor's agents and workmen to enter into and upon the Premises at reasonable times to inspect the Premises and examine the condition thereof upon forty-eight (48) hours written notice, except in the event of an emergency, in which event no notice shall be necessary.

ALTERATIONS:

Lessee may perform leasehold improvements and make subsequent non-structural modifications and alterations to the building, provided that Lessee will obtain Lessor's prior written approval of any proposed modifications or alterations of the improvements on the property. Such approvals will be given or denied within ten (10) business days after receipt of a written request for approval and such

plans or other information as Lessor may reasonably require. Whether or not Lessor's consent is required under this Lease, Lessee will keep Lessor informed as to modifications and alterations of the Premises performed or to be performed by Lessee. All alterations shall be made in a good and workmanlike manner, and in compliance with applicable laws and building codes.

All alterations undertaken by Lessee shall be at Lessee's sole expense. Any alterations or improvements by Lessee shall become the property of Lessor upon termination of this Lease or be removed at Lessor's request with suitable repairs completed by Lessee.

ELECTRICAL AND BUILDING OVERLOADS:

Lessee shall not overload the floors or electrical circuits or alter the plumbing or wiring of the Premises or building without the written consent of Lessor, which Lessor shall not unreasonably withhold.

SIGNAGE:

No signs, awnings, antennas or other apparatus shall be painted on or attached to the building or anything placed on any glass or woodwork of the Premises or positions so as to be visible from outside the Premises without Lessor's written approval as to design, size, location and color. All signs installed by Lessee shall comply with Lessor's standards for signage and all applicable codes and ordinances, and all signs and sign hardware shall be removed upon termination of this Lease with the sign location restored to its former state unless Lessor elects to retain all or any portion thereof.

MAINTENANCE:

Lessor shall be responsible for necessary maintenance and repair of the building foundation, roof, sidewalks, exterior walls, heating and cooling systems, structural members, and for necessary water, sewage, gas, and electrical repairs so long as not made necessary by Lessee's negligence, misuse or failure to comply with any provisions of this lease.

Any repairs or maintenance performed on or around the leased Premises by the Lessor shall be done in such a way as to interfere as little as reasonably possible with the use of the Premises by the Lessee. Lessee shall have no right to an abatement of rent nor any claim against Lessor for any inconvenience or disturbance resulting from Lessor's activities performed in conformance with the requirements of this provision.

Lessor shall be responsible for routine maintenance of heating and air conditioning equipment, including filter changes.

Lessee shall be responsible for non-structural interior maintenance, including janitorial services and plumbing/toilet problems caused by Lessee or Lessee's invitee's negligence or misuse. Lessee shall maintain Premises in a neat condition, free of trash and debris, in good order and repair.

Lessee shall promptly notify Lessor of any necessary repairs and shall, if necessary to protect the leased Premises from imminent damage, prior to such notice, arrange for necessary emergency repairs. Payment for emergency repairs shall be the responsibility of Lessor.

Lessee shall be responsible for all damage to the leased Premises resulting from burglary or attempted burglary and shall repair and maintain all windows and doors.

INCLEMENT WEATHER ACCESSIBILITY:

Lessee agrees, in the event of severe winter weather that results in snow and ice buildup on the Premises, to remove such buildup from the sidewalks and parking lot immediately surrounding the building on the Premises, from the entrance of the publicly accessible sidewalk along McLoughlin Boulevard.

Lessor agrees to remove snow and ice buildup from to remainder of the parking lot and sidewalks on the Premises. In the event the Lessor is unable to discharge this responsibility in a reasonable time, Lessee may, by mutual agreement, clear the remainder of the Premises and adjoining parking areas and submit an invoice to Lessor for Lessee's costs incurred in performing such services.

REPAIR BY LESSOR:

Lessor shall have no liability for failure to perform required maintenance and repair unless written notice of the needed maintenance or repair is given by Lessee and Lessor fails to commence efforts to remedy the problem in a reasonable time and manner. Repair of damage caused by negligent or intentional acts or breach of this Lease by Lessee, its employees, invitees, or licensees shall be at Lessee's expense.

LIEN CLAIMS AND LIABILITY:

Lessee shall not allow any liens to attach to the building or Lessee's interest in the Premises as a result of any alterations or modifications done at Lessee's request, repairs or maintenance performed for which Lessor is not responsible, or obligations or judgments of Lessee unrelated to the Premises. Any labor or materials provided or construction done by Lessee at Lessor's request shall be deemed to have been provided by Lessor who shall be solely responsible for any liens or judgments arising from such provision or construction.

PLACE OF PAYMENT AND NOTICE:

Any notice to which Lessee shall be entitled under this Lease shall be delivered or sent to Clackamas County Facilities Management, 1710 S Red Soils Court #200, Oregon City, OR 97045. Place of payment and notice for Lessor shall be mailed to C.G.F. FAMILY LIMITED PARTNERSHIP, 9418 SE Chatfield Court, Happy Valley, OR 97086. Place for notices may be changed by written notice from the party changing address.

LIABILITY:

Lessee shall be responsible for insuring or self-insuring its personal property and trade fixtures located on the Premises and any alterations or tenant improvements it has made to the Premises. Lessee shall add the Lessor to the Lessee's personal property insurance agreement and the Lessee's insurer provider shall send annual notification that this has been completed.

TOTAL OR PARTIAL DESTRUCTION:

Lessor agrees to insure the building on the Premises against fire with extended coverage. So long as this provision does not invalidate or limit the extent of Lessor's coverage under such insurance policies, Lessor does hereby waive the right of subrogation against Lessee and Lessee's agents or employees under such fire insurance policy or policies. If the leased portion of the building on the Premises which is the subject of this lease so insured shall be damaged by some cause covered by such insurance to the extent of less than thirty percent (30%) thereof, Lessor shall promptly remove all debris therefrom and repair and rebuild the same, restoring the Premises in substantially the same condition in which it was previous to the destruction. If the structure shall be damaged more than thirty percent (30%), Lessor shall not be required to build but may do so at Lessor's option. Percentage of damage shall be determined by the fire insurance underwriter. If Lessor shall elect to rebuild and repair the Premises in the last mentioned instance, Lessor shall give written notice of Lessor's intention to do so to Lessee within thirty (30) days of the date of the damage. If Lessor fails to give such notice within thirty (30) days, this Lease shall terminate. If the Premises shall be damaged by some cause not covered by insurance and Lessor does not elect to rebuild or repair the Premises within sixty (60) days from date of damage, Lessee may terminate this lease at Lessee's option. During any period of time during which the Premises shall be unusable, rental shall abate entirely and if the operation of the business on the Premises shall be impaired in part, rental shall abate during the terms of repairs or rebuilding proportionate to loss of use of the Premises and said impairment of business. If the fire insurance premium rates shall increase in any way by reason of Lessee's activities on the Premises, Lessee shall reimburse Lessor promptly for the cost of any premium in excess of the amount Lessor would have been required to pay for insurance had it not been for Lessee's activities or use and shall be added to the rent as charge against Lessee.

QUIET ENJOYMENT; MORTGAGE PRIORITY:

Lessor warrant that it is the owner of the Premises and has the right to lease them. Lessor will defend Lessee's right to quiet enjoyment of the Premises from the lawful claims of all persons during the lease term.

Either party will, within twenty (20) days after notice from the other, execute and deliver to the other party a certificate stating whether or not this Lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by the other party. The certificate shall also state the amount of monthly rent, the dates to which rent has been paid in advance and the amount of any security deposit or prepaid rent.

ASSIGNMENT AND SUBLETTING:

Lessee shall not have the right to assign this Lease without the written consent of Lessor.

No assignment shall relieve Lessee of its obligation to pay rent or perform other obligations required by this lease, and no consent to one assignment or subletting shall be a consent to any further assignment or subletting. Lessor shall not unreasonably withhold its consent to any assignment, or to subletting provided that subrental rate or effective rental paid by the assignee is not less than the current scheduled rental rate of the building for comparable space and the proposed lessee is compatible with Lessor's other lessees and Lessor's normal standards for the building. If Lessee proposes a subletting or assignment to which Lessor is required to consent under this paragraph, Lessor shall have the option of terminating this lease and dealing directly with the proposed sublessee or assignee, or any third party.

HOLDING OVER:

If Lessee shall hold over and remain in possession of said Premises after expiration of this Lease without any written lease actually being made, such holding over shall not be deemed to operate as a renewal or extension of this Lease but shall only create a tenancy which may be terminated at any time by Lessor upon sixty (60) days written notice to Lessee.

EMINENT DOMAIN:

If the entire Premises or entire access shall be taken under power of eminent domain, this lease shall terminate, and Lessee shall immediately vacate said Premises within ninety (90) days after receipt of notice of said termination, or earlier if directed by a court having jurisdiction. Lessee shall not participate in any award of damages or purchase price paid by the acquiring authority to Lessor for the building and Premises and Lessee shall not be liable for any subsequent rent. If only a part of the Premises or access shall be taken under eminent domain so that Lessee may continue to operate Lessee's business on substantially the scale on which such business was conducted prior to condemnation, rental shall be abated for the remaining portion of the term of this lease or extension thereof, proportionate to the loss of use of the Premises by Lessee. In no event shall Lessee participate in any condemnation award or settlement.

WAIVER:

Any waiver of any breach of covenants herein contained to be kept and performed by Lessee or Lessor shall not be deemed or considered to be a continuing waiver, and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising any other rights as to any succeeding breach, either of the same condition or covenant or otherwise.

TERMINATION AND BREACH:

This Lease may be terminated by either party with ninety (90) days written notice.

If Lessee fails to pay any rental payment by the fifteenth (15th) day of the month in which it is due, Lessor may terminate this Lease by providing sixty (60) days written notice, with an opportunity to cure, to Lessee. Within sixty (60) days of receipt of said notice, Lessee shall either cure the default or vacate the Premises.

If Lessee defaults in performing its obligations under this Lease, other than payment of rent, Lessor may make any payment or perform any obligation which Lessee has failed to perform after not less than ten (10) days written notice to Lessee of Lessor's intention to pursue this remedy (except in cases of emergency, where no such prior notice shall be required), in which case Lessor shall be entitled to recover from Lessee upon demand all amounts so expended.

If Lessee breaches any covenants or conditions of this Lease, other than payment of rent, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessor claiming a default by Lessee and Lessor's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessee must commence correction within such period and thereafter diligently pursue the correction to completion), Lessor may terminate this Lease by sixty (60) days written notice thereof to Lessee, without waiver of

any rights Lessor may have to initiate legal proceedings to recover damages or other relief. Within sixty (60) days of sending such notice, Lessee shall vacate the Premises.

If Lessor breaches any covenants or conditions of this Lease, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessee claiming a default by Lessor and Lessee's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessor must commence correction within such period and thereafter diligently pursue the correction to completion), Lessee may terminate this Lease by sixty (60) days written notice thereof to Lessor, without waiver of any rights Lessee may have to initiate legal proceedings to recover damages or other relief. Within sixty (60) days of sending such notice, Lessee shall vacate the Premises.

The rights and remedies specified in this section shall be non-exclusive. Either party's right to terminate this Lease for default as provided herein shall not be that party's sole remedy, and such party may exercise any other right or remedy provided in this Lease or otherwise available under applicable law.

SURRENDER:

On expiration or early termination of this Lease, Lessee shall deliver all keys to Lessor and surrender the Premises clean and in the same condition as at the commencement of the term, subject only to reasonable wear and tear from ordinary use. Lessee shall remove all of its furnishings and trade fixtures that remain its property and restore all damage resulting from such removal. Failure to remove shall be an abandonment of the property, and Lessor may dispose of it in any manner without liability.

CONSTITUTIONAL DEBT LIMITATION:

This agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.

WARRANT OF AUTHORITY:

Lessor warrants and represents that Lessor is the sole owner of the Premises subject to this Lease, and that Lessor has full authority to execute this Lease. The undersigned, Gary Chin, warrants and represents that he has full authority to sign as Lessor.

LESSEE

CLACKAMAS COUNTY BOARD OF
COUNTY COMMISSIONERS by:

Jim Bernard, Chair

Mary Raethke, Recording Secretary

Elizabeth Comfort, Interim-Finance Director

Laura Zentner
Director, Business & Community Services

Approved as to form:

Office of County Counsel

Date

LESSOR

C.G.F. FAMILY LIMITED PARTNERSHIP
c/o GARY CHIN
9418 SE Chatfield Court
Happy Valley, OR 97086

72-1539377
Federal ID#

Authorized Signature

Printed Name

Date



Elizabeth Comfort
Finance Director, Interim

Department of Finance

Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

June 25, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution for Clackamas County for
Transfer of Appropriations for Fiscal Year 2019-2020

Purpose/Outcome	Budget change FY 2019-2020
Dollar Amount and Fiscal Impact	No fiscal impact. Transfer of existing appropriations.
Funding Source	Includes Interfund Transfers
Duration	July 1, 2019-June 30, 2020
Previous Board Action/Review	Budget Adopted June 27, 2019 and amended October 24, 2019
Strategic Plan Alignment	Build public trust through good government
Contact Person	Elizabeth Comfort, 503-742-5405

BACKGROUND: Periodically during the fiscal year it is necessary to transfer appropriations to more accurately reflect the changing requirements of the operating departments.

Transfers are a method of moving budgeted appropriations during the fiscal year as required by state budget law per ORS 294.463. There is no financial impact incurred as a result of transfers as appropriations for these amounts have been accomplished through the initial budget process.

The attached resolution accomplishes the above mentioned changes as requested by the following operating departments in keeping with a legally accurate budget.

The Sheriff Fund is aligning its budget to correctly account for the actual Interfund Transfer to the Juvenile Fund.

RECOMMENDATION:

Staff respectfully recommends adoption of the attached Resolution Order and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Elizabeth Comfort, Finance Director, Interim

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

In the Matter of Providing
Authorization to Transfer
Appropriations within the Fiscal Year
2019-20



Resolution Order No. _____
Page 1 of 1

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from appropriation category to another;

WHEREAS, transfer of appropriations for the period of July 1, 2019 through June 30, 2020, inclusive is necessary to continue to prudently manage the distribution of those expenditures for the needs of Clackamas County residents;

WHEREAS; the funds being adjusted are:

. Sheriff Fund;

It further appearing that it is in the best interest of the County to approve this transfer of appropriations for the period of July 1, 2019 through June 30, 2020.

BE RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.463, transfer of appropriation within the fiscal year budget is authorized as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

DATED this 25th day of June, 2020

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

TRANSFER REQUEST
Exhibit A
June 25, 2020

SHERIFF FUND

Expenses:

Public Safety and Protection	\$ (7,050)
Not Allocated to Organizational Unit	
Interfund Transfer	<u>7,050</u>
Total Expenditures	<u><u>\$ -</u></u>

Sheriff Fund is aligning its budget to correctly account for the actual Interfund Transfer to the Juvenile Fund.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Contract with NTA Contracting, Inc. for the
SE 90th Avenue Reconstruction**

Purpose/Outcomes	This contract will complete all work related to general excavation, roadway reconstruction, new stormwater facilities, roadway paving, new street lighting, and signs and striping along SE 90th Ave between SE Monterey Ave and SE Causey Ave.
Dollar Amount and Fiscal Impact	Contract value is \$924,199.41
Funding Source	County Road Fund (\$769,199.41), WES funds (\$100,000) for storm water infrastructure, and Street Lighting District funds (\$55,000) for illumination facilities.
Duration	Contract execution through December 31, 2021
Previous Board Action	None
Strategic Plan Alignment	This project will provide strong infrastructure and ensure safe communities by maintaining the County's existing road infrastructure.
Counsel Approval	June 15, 2020
Contact Person	Stan Monte, Project Manager 503-742-4678

Background:

SE 90th Ave is an existing concrete roadway adjacent to the Clackamas Town Center. This roadway is classified as a Collector and connects SE Monterey Ave (Minor Arterial) to SE Causey Ave (Collector). Apartments, sidewalks and street trees run along on both the east and west sides of SE 90th Ave with only the east side having on-street parking.

The existing concrete roadway is in poor condition with substantial cracking and settling of many of the concrete panels, requiring continuous ongoing maintenance and repair. This contract will reconstruct the entire roadway from curb to curb, add stormwater treatment facilities, street lighting and sidewalk ADA improvements at the intersections.

Work on the project is anticipated to begin immediately following contract signing. Substantial completion will be not later than October 31, 2020, with the final acceptance of seeding establishment no later than December 31, 2021.

Procurement Process:

This project was advertised in accordance with ORS and LCRB Rules on March 20, 2020. Bids were opened on May 13, 2020. The County received twelve (12) bids: Kerr Contractors, \$1,130,157.00; Elting Northwest, Inc., \$1,025,815.00; Westech Construction, Inc., \$1,099,104.00; Nutter Corporation, \$1,035,550.22; Eagle-Elsner, Inc., \$1,256,857.75; Kodiak Pacific Construction, \$1,213,213.00; Emery & Sons Construction, \$1,108,406.00; McDonald Excavating, \$1,063,512.00; NTA Contracting, Inc., \$924,199.41; Goodfellow Bros. Inc., \$1,059,999.00; Moore Excavating, Inc., \$1,084,500.00; and James W. Fowler, Co., \$1,277,149.74. After review of the bids, NCA Contracting, Inc. was determined to be the lowest responsive bidder.

Recommendation:

Staff respectfully recommends that the Board approve and sign this public improvements contract with NTA Contracting, Inc. for the SE 90th Avenue Reconstruction.

Sincerely,

Jonathan Hangartner

Jonathan Hangartner,
Project Manager
Department of Transportation and Development

Placed on the BCC Agenda _____ by Procurement



CLACKAMAS COUNTY PUBLIC IMPROVEMENT CONTRACT

This Public Improvement Contract (the "Contract"), is made by and between the Clackamas County, a political subdivision of the State of Oregon, hereinafter called "Owner," and **NTA Contracting, Inc.**, hereinafter called the "Contractor" (collectively the "Parties"), shall become effective on the date this Contract has been signed by all the Parties and all County approvals have been obtained, whichever is later.

Project Name: #2020-35 SE 90th Avenue Reconstruction

1. Contract Price, Contract Documents and Work.

The Contractor, in consideration of the sum of **nine hundred twenty-four thousand one hundred ninety-nine dollars and forty-one cents (\$924,199.41)** (the "Contract Price"), to be paid to the Contractor by Owner in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Contract Documents (as defined in the project specifications) referenced within the Instructions to Bidders), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents. The Contract Price is the amount contemplated by the Base Bid.

Also, the following documents are incorporated by reference in this Contract and made a part hereof:

- Notice of Contract Opportunity
- Supplemental Instructions to Bidders
- Bid Form
- Performance Bond and Payment Bond
- Payroll and Certified Statement Form
- Addendum #1
- Instructions to Bidders
- Bid Bond
- Public Improvement Contract Form
- Prevailing Wage Rates
- Plans, Specifications and Drawings

The Plans, Specifications and Drawings expressly incorporated by reference into this Contract includes, but is not limited to, the Special Provisions for Highway Construction (the "Specifications"), together with the provisions of the Oregon Standard Specifications for Construction (2018) referenced therein.

The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default

2. Representatives.

Contractor has named Jason Ashe as its Authorized Representative to act on its behalf. Owner designates, or shall designate, its Authorized Representative as indicted below (check one):

Unless otherwise specified in the Contract Documents, the Owner designates Stan Monte as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment, authorization, and to carry out the responsibilities of the Owner.

Name of Owner's Authorized Representative shall be submitted by Owner in a separate writing.

3. Key Persons.

The Contractor's personnel identified below shall be considered Key Persons and shall not be replaced during the project without the written permission of Owner, which shall not be unreasonably withheld. If the

Contractor intends to substitute personnel, a request must be given to Owner at least 30 days prior to the intended time of substitution. When replacements have been approved by Owner, the Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the project concurrently. Once a replacement for any of these staff members is authorized, further replacement shall not occur without the written permission of Owner. The Contractor's project staff shall consist of the following personnel:

Project Executive: Jason Ashe shall be the Contractor's project executive, and will provide oversight and guidance throughout the project term.

Project Manager: Clay Grace shall be the Contractor's project manager and will participate in all meetings throughout the project term.

Job Superintendent: Jon Anderson shall be the Contractor's on-site job superintendent throughout the project term.

4. Contract Dates.

COMMENCEMENT DATE: Upon Issuance of Notice to Proceed ("NTP")

SUBSTANTIAL COMPLETION DATE: October 31, 2020

FINAL COMPLETION DATE to include seeding establishment: June 30, 2021

Time is of the essence for this Contract. It is imperative that the Work in this Contract reach Substantial Completion and Final Completion by the above specified dates.

5. Insurance Certificates and Required Performance and Payment Bonds.

5.1 In accordance with Section 00170.70 of the Specifications, Contractor shall furnish proof of the required insurance naming Clackamas County as an additional insured. Insurance certificates may be returned with the signed Contract or may be emailed to Procurement@clackamas.us.

5.2 Primary Coverage: Insurance carried by Contractor under the Contract shall be the primary coverage. The coverages indicated are minimums unless otherwise specified in the Contract Documents.

5.2.1 Workers' Compensation: All employers, including Contractor, that employ subject workers who work under the Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. This shall include Employer's Liability Insurance with coverage limits of not less than the minimum amount required by statute for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its Subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation coverage by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or its Subcontractors.

5.3 Builder's Risk Insurance: During the term of the Contract, for new construction the Contractor shall obtain and keep in effect Builder's Risk insurance on an all risk forms, including earthquake and flood, for an amount equal to the full amount of the Contract, plus any changes in values due to modifications, Change Orders and loss of materials added. Such Builder's Risk shall include, in addition to earthquake and flood, theft, vandalism, mischief, collapse, transit, debris removal, and architect's fees "soft costs" associated with delay of Project due to insured peril. Any deductible shall not exceed \$50,000 for each loss, except the earthquake and flood deductible which shall not exceed

2 percent of each loss or \$50,000, whichever is greater. The deductible shall be paid by Contractor. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear.

5.4 Builder's Risk Installation Floater: For Work other than new construction, Contractor shall obtain and keep in effect during the term of the Contract, a Builder's Risk Installation Floater for coverage of the Contractor's labor, materials and equipment to be used for completion of the Work performed under the Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contract. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear. Owner may waive this requirement at its sole and absolute discretion.

5.4.1 Such insurance shall be maintained until Owner has occupied the facility.

5.4.2 A loss insured under the Builder's Risk insurance shall be adjusted by the Owner and made payable to the Owner as loss payee. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner. The Owner shall have power to adjust and settle a loss with insurers.

5.5 "Tail" Coverage: If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 36 months or the maximum time period available in the marketplace if less than 36 months. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 36 months following Final Completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the Contract. Owner's receipt of the policy endorsement evidencing such coverage shall be a condition precedent to Owner's obligation to make final payment and to Owner's final acceptance of Work or services and related warranty (if any).

5.6 Notice of Cancellation or Change: If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify Owner by fax within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. When notified by Owner, the Contractor agrees to stop Work pursuant to the Contract at Contractor's expense, unless all required insurance remain in effect. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverages provided to the Owner and its institutions, divisions, officers, and employees.

Owner shall have the right, but not the obligation, of prohibiting Contractor from entering the Project Site until a new certificate(s) of insurance is provided to Owner evidencing the replacement coverage. The Contractor agrees that Owner reserves the right to withhold payment to Contractor until evidence of reinstated or replacement coverage is provided to Owner.

5.7 Before execution of the Contract, the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Revised Statutes, Chapter 279C.830 and 279C.836, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting any Subcontractor to start Work.

5.8 When the Contract Price is \$50,000 or more, the Contractor shall furnish and maintain in effect at all times during the Contract Period a performance bond in a sum equal to the Contract Price and a separate payment bond also in a sum equal to the Contract Price. Contractor shall furnish such bonds even if the Contract Price is less than the above thresholds if otherwise required by the Contract Documents.

5.9 Bond forms furnished by the Owner and notarized by Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.

6. Responsibility for Damages/Indemnity.

6.1 Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Work to be done under the Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, employees, guests, visitors, invitees and agents.

6.2 To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by Owner) and hold harmless the Owner and its elected officials, officers, directors, agents, and employees (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses, demands and actions of any nature whatsoever which arise out of, result from or are related to: (a) any damage, injury, loss, expense, inconvenience or delay described in this Section 6.1; (b) any accident or occurrence which happens or is alleged to have happened in or about the Project Site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects; (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract; (d) the negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140); and (e) any lien filed upon the Project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 6.2.

6.3 In claims against any person or entity indemnified under Section 6.2 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 6.2 shall not be limited on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7. Tax Compliance.

Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific

performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

8. Confidential Information.

Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to Owner. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed confidential information of Owner ("Confidential Information"). Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Contract.

9. Counterparts.

This Contract may be executed in several counterparts, all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

10. Integration.

All provisions of state law required to be part of this Contract, whether listed in the General or Special Conditions or otherwise, are hereby integrated and adopted herein. Contractor acknowledges the obligations thereunder and that failure to comply with such terms is a material breach of this Contract.

The Contract Documents constitute the entire agreement between the parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

11. Liquidated Damages

The Contractor acknowledges that the Owner will sustain damages as a result of the Contractor's failure to substantially complete the Project in accordance with the Contract Documents. These damages may include, but are not limited to delays in completion, use of the Project, and costs associated with Contract administration and use of temporary facilities.

11.1 Liquidated Damages shall be as follows if the actual Substantial Completion exceeds the required date of Substantial Completion:

11.1.1. \$ 800.00 per Calendar day past the Substantial Completion date as identified in section 00180.85 (b) and 00180.85 (c).

12. Compliance with Applicable Law. Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract including, but not limited to, compliance with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default.

13. Responsibility for Taxes. Contractor is solely responsible for payment of any federal, state, or local taxes required as a result of the Contract or the Work including, but not limited, to payment of the corporate activity tax imposed under enrolled HB 3427 (2019 Oregon regular legislative session). Contractor may not include its federal, state, or local tax obligations as part of the cost to perform the Work.

In witness whereof, Clackamas County executes this Contract and the Contractor does execute the same as of the day and year first above written.

Contractor DATA:
NTA Contracting, Inc.
7445 NE 33rd Drive
Portland, Oregon 97211

Contractor CCB # 80682 Expiration Date: 3/27/2021
 Oregon Business Registry # 172159-14 Entity Type: DBC State of Formation: Oregon

Payment information will be reported to the IRS under the name and taxpayer ID# provided by the Contractor. Information must be provided prior to contract approval. Information not matching IRS records could subject Contractor to 28 percent backup withholding.

NTA Contracting, Inc.

Clackamas County Board of County Commissioners

 Authorized Signature Date

 Chair Date

 Name / Title Printed

 Recording Secretary

APPROVED AS TO FORM

 County Counsel Date