



John D. Wentworth, Clackamas County District Attorney

807 Main Street, Oregon City, Oregon 97045
P: 503.655.8431 | F: 503.650.8943 | districtattorney@clackamas.us

September 26, 2024

Board of County Commissioners
Clackamas County

Approval of Grant Agreement Amendment #1 with the Oregon Criminal Justice Commission for the Oregon Behavioral Health Deflection Program. Amendment value is \$585,598 and Total Agreement Value is \$1,060,853 for 1 year. Funding is through Oregon House Bill 4002. No County General Funds are involved.

Previous Board Action/Review	Approved to Receive 1 st half of funds 5/16/24 Briefed at Issues 9/24/24		
Performance Clackamas	Ensure Safe, Healthy, and Secure Community		
Counsel Review	Yes	Procurement Review	No
Contact Person	John Wentworth	Contact Phone	503-655-8353

EXECUTIVE SUMMARY: The 2024 State Legislature passed HB 4002 creating a unique misdemeanor crime for drug possession and creating allowances for counties to implement locally designed deflection programs to incentivize people charged with possession to move toward treatment and recovery. HB 5204 is a complementary bill that provides funding to allow counties to stand up these local programs. During the legislative session, Clackamas County signed a letter of commitment to participate in this work provided there is sufficient funding. In signing this commitment letter, the county is eligible to receive 50% of the funds within 60 days of the passage of HB 4002 and 5204, effectively before June 1.

The Criminal Justice Commission (CJC) approved the formula funding for this program, identifying that \$1,060, 853 is available to Clackamas County to implement the deflection program, with eligible use of the funds occurring between April 1, 2024, and June 30, 2025. To receive the balance of the funds, the CJC requests application by September 24, 2024, including a 500-word summary for the program aim, as well as the name of a coordinator. Notice of the remaining funding and grant timeline was announced on September 9, 2024.

The Local Public Safety Coordinating Council (LPSCC) met on April 15, 2024, to discuss the initial concepts of how to apply funding toward this program. At this early stage, the intent for Clackamas will be to start up a program coordinator in the District Attorney’s Office and establish a small team of navigators to assist law enforcement with drug possession



John D. Wentworth, Clackamas County District Attorney

807 Main Street, Oregon City, Oregon 97045
P: 503.655.8431 | F: 503.650.8943 | districtattorney@clackamas.us

interactions. The initial funding will help to solidify the details of the program and inform how best to apply for the remaining funding.

RECOMMENDATION: Staff recommends the BCC approve the consent agenda item to receive the Grant Award for the remainder of the Oregon Behavioral Health Deflection Program funding.

Respectfully submitted,

John Wentworth
District Attorney

BHD-25-03 GRANT AGREEMENT
AMENDMENT #1
CRIMINAL JUSTICE COMMISSION
BEHAVIORAL HEALTH DEFLECTION GRANT PROGRAM

This is Amendment No. 1 to Grant Agreement No. BHD-25-03 (“Agreement”) between the State of Oregon, acting through its Criminal Justice Commission (“CJC” or “State”), and **Clackamas County** (“Recipient”).

1. Effective Date. This Agreement shall become effective on the date that it is fully executed and approved as required by applicable law.

2. Amendment to Agreement. The Agreement is hereby amended as follows:

A. The Grant Amount in Section 1 is amended as follows:

Grant Amount: \$1,060,853.00

B. Section 3.A is amended and restated to include additional disbursements as follows:

A. Disbursement. Upon execution of this Agreement and satisfaction of all conditions precedent, CJC shall disburse Grant funds to Recipient in installments as listed:

- (1) \$475,255.00 by May 31, 2024;
- (2) \$292,799.00 by October 5, 2024; and
- (3) \$292,799.00 by March 31, 2025.

C. The Project Description and Reporting Requirements Schedule stated in Exhibit A are amended and restated as follows:

Project Description:

Pursuant to House Bill 4002 (2024), the Oregon Behavioral Health Deflection Program supports Oregon’s federally recognized tribal governments and counties in the development and operation of “deflection programs,” defined as a collaborative program between law enforcement agencies and behavioral health entities that assist individuals who may have substance use disorder, another behavioral health disorder or co-occurring disorders, to create community-based pathways to treatment, recovery support services, housing, case management or other services.

The purposes of CJC’s Behavioral Health Deflection Program include:

- Addressing the need for more deflection programs to assist individuals whose behavioral health conditions, including substance use disorder, lead to interactions with law enforcement, incarceration, conviction and other engagement with the criminal justice system; and

- Tracking and reporting data concerning deflection program outcomes in order to determine the best practices for deflection programs in Oregon.

The Grant has been awarded as an operational grant and requires the Recipient to:

- Have a program coordinator responsible for the duties outlined in HB 4002, Section 76(5)(b);
- Involve the partners described in HB 4002, Section 76(4)(c); and
- Comply with the CJC's data tracking and reporting requirements.

Recipient shall use Grant funds to support the following program(s), its adherence to the requirements set forth in HB 4002, and its efforts toward the goals stated above: Deflection program following an officer intervention model.

Reporting Requirements:

Schedule

Recipient must submit to CJC quarterly expenditure reports, beginning October 25, 2024, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Date.

Recipient must submit to CJC's research partners data reports on a monthly, rolling basis, beginning no earlier than September 1, 2024, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Date.

Recipient must submit to CJC semi-annual reports on January 25 and July 25 of each year of the Project Period.

Recipient must receive prior approval from CJC to submit any required report after its due date.

3. Counterparts. This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. Original Agreement. Except as expressly amended above, all other terms and conditions of original Agreement remain in full force and effect. By its execution of this Amendment, Grantee certifies to CJC that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

The signatures of the parties follow on the next page.

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



STATE OF OREGON

acting by and through its
Criminal Justice Commission

CLACKAMAS COUNTY

By: _____
Ken Sanchagrin, Executive Director

By: _____

Date: _____

Date: _____

Approved as to Legal Sufficiency in accordance with ORS 291.047:

Approved by email dated 8/8/24

Samuel B. Zeigler, Senior Assistant Attorney General

BHD-25-03 GRANT AGREEMENT
CRIMINAL JUSTICE COMMISSION
BEHAVIORAL HEALTH DEFLECTION GRANT PROGRAM

Agreement Number: BHD-25-03

This grant agreement (“Agreement”), dated as of the date the Agreement is fully executed, is between the State of Oregon, acting through its Oregon Criminal Justice Commission (“CJC” or “State”), and **Clackamas County** (“Recipient”). This Agreement becomes effective only when fully signed and approved as required by applicable law (“Effective Date”). Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire **December 31, 2025**.

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: Contact Information, Project Description and Reporting Requirements

Exhibit B: Subagreement Insurance Requirements

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

SECTION 1: KEY GRANT TERMS

The following capitalized terms have the meanings assigned below.

Grant Amount: \$475,255

Completion Deadline: June 30, 2025

SECTION 2: FINANCIAL ASSISTANCE

CJC shall provide Recipient, and Recipient shall accept from CJC, a grant (the “Grant”) in an aggregate amount not to exceed the Grant Amount.

CJC’s obligations are subject to the receipt of the following items, in form and substance satisfactory to CJC and its Counsel:

- (1) This Agreement duly signed by an authorized officer of Recipient; and
- (2) Such other certificates, documents, and information as CJC may reasonably require.

SECTION 3: DISBURSEMENT

- A. Disbursement. Upon execution of this Agreement and satisfaction of all conditions precedent, CJC shall disburse Grant funds to Recipient in a one-time installment of \$475,255.
- B. Conditions to Disbursements. CJC has no obligation to disburse Grant funds unless:
 - (1) CJC has sufficient funds currently available for this Agreement; and
 - (2) CJC has received appropriations, limitations, allotments or other expenditure authority

sufficient to allow CJC, in the exercise of its reasonable administrative discretion, to make payment. Notwithstanding any other provision of this Agreement, CJC's determination not to disburse funds due to lack of appropriations, allotments, or expenditure authority will not constitute an Event of Default.

SECTION 4: USE OF GRANT

As more particularly described in Exhibit A, Recipient will use the Grant to fund Behavioral Health Deflection programs (the "Project"). Recipient may only use Grant funds to cover reasonable and necessary Project costs incurred by Recipient during the period beginning April 1, 2024, and ending on the Completion Deadline, and that are allocable thereto and that are not excluded by CJC as set forth in the *Grant Administration Guide* published by CJC ("Eligible Costs"). Recipient must expend the entire Grant Amount on Eligible Costs. Such expenditure must occur no later than the Completion Deadline.

SECTION 5: REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to CJC as follows:

A. Organization and Authority.

- (1) Recipient is validly organized and existing under the laws of the State of Oregon.
- (2) Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to execute and deliver this Agreement and incur and perform its obligations under this Agreement.
- (3) This Agreement 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 Agreement has been duly executed by Recipient, and when executed by CJC, is legal, valid and binding, and enforceable in accordance with this Agreement's terms.

B. Full Disclosure. Recipient has disclosed in writing to CJC all facts that materially adversely affect the Grant, or the ability of Recipient to perform all obligations required by this Agreement. Recipient has made no false statements of fact, nor omitted information necessary to prevent any statements from being misleading. The information contained in this Agreement, including Exhibit A, is true and accurate in all respects.

C. Pending Litigation. Recipient has disclosed in writing to CJC 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 Grant or the ability of Recipient to perform all obligations required by this Agreement.

SECTION 6: COVENANTS OF RECIPIENT

Recipient covenants as follows:

A. Notice of Adverse Change. Recipient shall promptly notify CJC of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Agreement.

B. Compliance with Laws.

- (1) 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.
- (2) Recipient is responsible for all federal or state tax laws applicable to its implementation of the Project and its use of the Grant or compensation or payments paid with the Grant.

C. Worker's Compensation Insurance. All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subgrantees and subrecipients complies with these requirements.

D. Return of Unexpended Grant Funds. Recipient must return to CJC any Grant funds not expended by the Completion Deadline.

E. Financial Records. Recipient will cooperate with CJC to provide all necessary financial information and records to comply with reporting required in Exhibit A. Recipient will keep proper books of account and records on all activities associated with the Grant, including, but not limited to, invoices, cancelled checks, payroll records, instruments, agreements and other supporting financial records documenting the use of the Grant. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles. Recipient will retain these books of account and records until six years after the Completion Deadline or the date that all disputes, if any, arising under this Agreement have been resolved, whichever is later.

F. Inspection. Recipient shall permit CJC, and any party designated by CJC, the Oregon Secretary of State's Office, and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the administration of this Agreement. Recipient shall supply any Agreement-related information as CJC may reasonably require, with the exception of materials protected by attorney-client privilege or the attorney work product doctrine. Further, Recipient shall neither supply, nor permit inspection of, (1) any information protected by HIPAA, ORS 192.553, or related regulations or rules, or (2) the personnel files of Recipient's employees, absent appropriate confidentiality protections, including exemption from disclosure under the Public Records Law, ORS ch. 192.

G. Notice of Event of Default. Recipient shall give CJC 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.

H. Recipient Subagreements and Procurements.

- (1) Subagreements. Recipient may enter into agreements with subgrantees and subrecipients ("Subagreements") for implementation of portions of the Project. Recipient shall notify CJC of each Subagreement and provide CJC with a copy of a Subagreement upon request by CJC. Any material breach of a term or condition of a Subagreement relating to Grant Funds provided under this Agreement must be reported by Recipient to CJC within ten (10) days of its discovery.

(2) Subagreement indemnity; insurance.

Each Recipient Subagreement shall require each other party to such Subagreement, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to indemnify, defend, save and hold harmless the CJC and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to the Subagreement or any of such party's officers, agents, employees or contractors ("Claims"). It is the specific intention of the Parties that CJC shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the CJC, be indemnified by the other party to the Subagreement from and against any and all Claims.

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

Recipient shall require each other party to each of its Subagreements, that is not a unit of local government as defined in ORS 190.003, or a unit of state government as defined in ORS 174.111, to obtain and maintain insurance of the types and in the amounts provided in Exhibit B to this Agreement.

(3) Procurements.

- i. Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules.
- ii. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. Justification must be provided to CJC for any non-competitive or sole-source procurement. Justification should include a description of the equipment, materials or services procured, an explanation of why it was necessary to procure noncompetitively, time constraints and any other pertinent information. All sole source procurements in excess of \$100,000 must receive prior written approval from CJC in addition to any other approvals required by law applicable to Recipient. Intergovernmental agreements between units of government are excluded from this requirement to obtain CJC approval of sole source procurements.

- iii. Recipient shall be alert to organizational conflicts of interest or non-competitive practices among vendors that may restrict or eliminate competition or otherwise restrain trade. A vendor that develops or drafts specifications, requirements, statements of work, or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award in such procurement. A request for a waiver of this restriction must be submitted to and approved by CJC in advance and in writing.

SECTION 7: DEFAULT

- A. **Recipient Default.** Any of the following constitutes an “Event of Default” of Recipient:
- (1) **Misleading Statement.** Any materially false or misleading representation is made by Recipient or a person authorized to speak on its behalf, in this Agreement or in any document provided by Recipient related to this Grant.
 - (2) **Failure to Perform.** Recipient fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement, other than those referred to in subsection A 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 CJC. CJC may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action. Acts or omissions of subgrantees shall not constitute an Event of Default unless ratified or knowingly induced by Recipient.
- B. **CJC Default.** CJC will be in default under this Agreement if it fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 8: REMEDIES

- A. **CJC Remedies.** Upon the occurrence of an Event of Default, CJC may pursue any remedies available under this Agreement, at law or in equity. Such remedies include, but are not limited to, termination of CJC’s obligations to make the Grant or further disbursements, return of all or a portion of the Grant Amount, payment of interest earned on the Grant Amount, and declaration of ineligibility for the receipt of future awards from CJC. If, because of an Event of Default, CJC demands return of all or a portion of the Grant Amount or payment of interest earned on the Grant Amount, Recipient shall pay the amount upon CJC’s demand.
- CJC may also recover all or a portion of any amount due from Recipient by deducting that 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.
- CJC reserves the right to turn over any unpaid debt under this Section 8 to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. These remedies are cumulative and not exclusive of any other remedies provided by law.
- B. **Recipient Remedies.** In the event of default by CJC, Recipient’s sole remedy will be for disbursement of Grant funds for Eligible Costs of the Project, not to exceed the total Grant Amount, less any claims CJC has against Recipient.

SECTION 9: TERMINATION

- A. Mutual Termination. This Agreement may be terminated at any time by mutual written consent of the parties.
- B. Termination by CJC. In addition to terminating this Agreement upon an Event of Default as provided in Section 8, CJC may terminate this Agreement with notice to Recipient under any of the following circumstances:
- (1) If CJC anticipates a shortfall in applicable revenues or CJC fails to receive sufficient funding, appropriations or other expenditure authorizations to allow CJC, in its reasonable discretion, to continue making payments under this Agreement.
 - (2) There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.
- C. Termination by Recipient. Recipient may terminate this Agreement with notice to CJC under any of the following circumstances:
- (1) After conferring with CJC, Recipient has determined that the requisite local funding to continue the Project is unavailable to Recipient or Recipient is unable to continue implementation of the Project as a result of circumstances not reasonably anticipated by Recipient at the time it executed this Agreement and that are beyond Recipient's reasonable control.
 - (2) There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.

SECTION 10: MISCELLANEOUS

- A. Contribution.
- (1) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against CJC or Recipient relating to this Agreement or the Project and with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's contribution obligation with respect to the Third Party Claim.
 - (2) With respect to a Third Party Claim for which CJC is jointly liable with Recipient (or would be if joined in the Third Party Claim), CJC shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the CJC on the one hand and of Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of CJC on the one hand and of Recipient on the other

hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. CJC's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if CJC had sole liability in the proceeding.

- (3) With respect to a Third Party Claim for which Recipient is jointly liable with CJC (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by CJC in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of CJC on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of CJC on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

- B. No Implied Waiver. No failure or delay on the part of CJC to exercise any right, power, or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- C. 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 Agreement, 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 Agreement 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.

- D. Notices and Communication. Except as otherwise expressly provided in this Agreement, 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 CJC 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.

- E. Amendments. This Agreement may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.
- F. Work Product. To the extent it has the necessary rights, Recipient hereby grants to CJC a non-exclusive, irrevocable, perpetual, royalty-free, license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display for governmental purposes, all documents, reports and works of authorship created, produced or obtained as part of or in connection with the Project ("Work Product"). Recipient shall deliver copies of Work Product to CJC upon request. In addition, if applicable law requires that CJC own such intellectual property, then Recipient shall execute such further documents and instruments as CJC may reasonably request in order to assign ownership in the intellectual property to CJC.
- G. Independent Contractor. Recipient shall implement the Project as an independent contractor and not as an agent or employee of CJC. Recipient has no right or authority to incur or create any obligation for or legally bind CJC in any way. CJC cannot and will not control the means or manner by which Recipient implements the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of implementing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of CJC, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- H. Severability. If any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.
- I. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of CJC, 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 CJC.
- J. Counterparts. This Agreement may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.
- K. Integration. This Agreement (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Agreement.
- L. No Third-Party Beneficiaries. CJC and Recipient are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement 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 Agreement. Notwithstanding the foregoing, CJC acknowledges, agrees, and intends that Recipient will expend the Grant consistent with the Project.

- M. Survival. The following provisions, including this one, survive expiration or termination of this Agreement: Sections 6.D through 6.F, 7, 8, 10.A, 10.C, 10.D, and 10.O.
- N. Time is of the Essence. The parties agree that time is of the essence under this Agreement.
- O. Public Records. CJC's obligations under this Agreement are subject to the Oregon Public Records Laws.

The signatures of the parties follow on the next page.

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



STATE OF OREGON
acting by and through its
Criminal Justice Commission

CLACKAMAS COUNTY

By: Ken Sanchagrin
Ken Sanchagrin, Executive Director

Date: 4/30/2024

By: 
Clackamas County Commissioner

Date: 05/16/2024

Approved as to Legal Sufficiency in accordance with ORS 291.047:

Approved by email dated 4/15/24
Samuel B. Zeigler, Senior Assistant Attorney General

EXHIBIT A: CONTACT INFORMATION, PROJECT DESCRIPTION AND REPORTING REQUIREMENTS

Contact Information:**CJC**

State of Oregon, acting by and through
its Criminal Justice Commission

Grant Administrator: Kaysea Beck

Telephone: (503) 602-0640

Email: kaysea.beck@cjc.oregon.gov

Recipient

Clackamas County
807 Main St., Rm 7
Oregon City, OR 97045

Contact: William Stewart

Telephone: (971) 666-0368

Email: billste@clackamas.us

Project Description:

Pursuant to House Bill 4002 (2024), the Oregon Behavioral Health Deflection Program supports Oregon’s federally recognized tribal governments and counties in the development and operation of “deflection programs,” defined as a collaborative program between law enforcement agencies and behavioral health entities that assist individuals who may have substance use disorder, another behavioral health disorder or co-occurring disorders, to create community-based pathways to treatment, recovery support services, housing, case management or other services.

The purposes of CJC’s Behavioral Health Deflection Program include:

- Addressing the need for more deflection programs to assist individuals whose behavioral health conditions, including substance use disorder, lead to interactions with law enforcement, incarceration, conviction and other engagement with the criminal justice system; and
- Tracking and reporting data concerning deflection program outcomes in order to determine the best practices for deflection programs in Oregon.

The Grant has been awarded as a planning grant and requires the Recipient to:

- Prioritize the establishment of a program coordinator responsible for the duties outlined in HB 4002, Section 76(5)(b);
- Coordinate with the partners described in HB 4002, Section 76(4)(c) on the development and administration of a deflection program;
- Cooperate with the CJC and its technical assistance providers in establishing a statewide data collection system for deflection programs; and
- Notify CJC as soon as Recipient’s program becomes operational to amend any terms of this agreement, as needed.

Recipient shall use Grant funds to support the development of the **Clackamas County Deflection Program**, its adherence to the requirements set forth in HB 4002, and its efforts toward the goals stated above.

Project Period:

Start Date: April 1, 2024

End Date: June 30, 2025

Reporting Requirements:

Schedule

Recipient must submit to CJC a budget projection worksheet by July 25, 2024.

Recipient must submit to CJC quarterly expenditure reports, beginning July 25, 2024, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Date.

Once Recipient’s program becomes operational, Recipient must submit to CJC monthly data reports, beginning no earlier than September 1, 2024, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Date.

Recipient must submit to CJC semi-annual progress reports on January 25 and July 25 of each year of the Project Period.

Recipient must receive prior approval from CJC to submit any required report after its due date.

Report Contents

Required reports must be submitted through CJC’s grant administration system and the Research Electronic Data Capture (REDCap) data collection portal, respectively, and contain all the requested information.

1. CJC Quarterly Expenditure Report (<https://cjc-grants.smapply.io>)
 - a. Grant Funds spent during the prior calendar quarter, with brief description; and
 - b. Any quarterly information on the Project as CJC may reasonably request.

2. CJC Semi-Annual Progress Report (<https://cjc-grants.smapply.io>)
 - a. In a narrative fashion, Recipient’s progress in meeting the Project’s objectives during the six-month period preceding the report date, and remedial actions necessary if those objectives have not been met in any respect.

3. CJC REDCap Monthly Data Report
 - a. Deidentified data on program participants enrolled, engaged, or served during the prior calendar month; and
 - b. Any monthly information on the Project as CJC may reasonably request.

EXHIBIT B: SUBAGREEMENT INSURANCE REQUIREMENTS

Recipient shall require each of its first-tier contractors that are not units of local government as defined in ORS 190.003 (each a “Contractor”) to obtain, at the Contractor’s expense, the insurance specified in this Exhibit B before performing under this Agreement and to maintain it in full force and at the Contractor’s own expense throughout the duration of this Agreement, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Contractors shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to CJC. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers’ Compensation. Contractors shall pay for all deductibles, self-insured retention and self-insurance, if any. Recipient shall require and ensure that each of its Contractors complies with these requirements and maintains insurance policies with responsible insurers, insuring against liability, in the coverages and amounts identified below.

WORKERS’ COMPENSATION & EMPLOYERS’ LIABILITY:

All employers, including Contractors, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require and ensure that each of its Contractors complies with these requirements. If a Contractor is a subject employer, as defined in ORS 656.023, the Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If the Contractor is an employer subject to any other state’s workers’ compensation law, Contractor shall provide workers’ compensation insurance coverage for its employees as required by applicable workers’ compensation laws including employers’ liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, each Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen’s and Harbor Workers’ Compensation Act.

COMMERCIAL GENERAL LIABILITY:

Required **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Agreement, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Automobile Liability Insurance covering each Contractor’s business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for

bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

EXCESS/UMBRELLA INSURANCE:

Umbrella insurance coverage in the sum of \$2,000,000 shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Automobile Liability, and Employers' Liability coverage. The amounts of insurance for the insurance required under this Agreement, including this Excess/Umbrella insurance requirement, may be met by the Contractor obtaining coverage for the limits specified under each type of required insurance or by any combination of underlying, excess and umbrella limits so long as the total amount of insurance is not less than the limits specified for each type of required insurance added to the limit for this excess/umbrella insurance requirement.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Agreement must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to a Contractor's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

Each Contractor shall waive rights of subrogation which the Contractor or any insurer of the Contractor may acquire against the CJC or State of Oregon by virtue of the payment of any loss. Each Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the CJC has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

CONTINUOUS CLAIMS MADE COVERAGE:

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then the Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of:

- (i) The Contractor's completion and CJC's acceptance of all Services required under the Agreement, or
- (i) CJC or Recipient termination of this Agreement, or
- (ii) The expiration of all warranty periods provided under this Agreement.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Upon request, each Contractor shall provide to CJC Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Agreement. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Agreement. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance CJC has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Agreement.

NOTICE OF CHANGE OR CANCELLATION:

Each Contractor or its insurer must provide at least 30 days' written notice to CJC before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Recipient agrees to periodic review of insurance requirements by CJC under this Agreement and to provide updated requirements as mutually agreed upon by Recipient and CJC.

STATE ACCEPTANCE:

All insurance providers are subject to CJC acceptance. If requested by CJC, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to CJC's representatives responsible for verification of the insurance coverages required under this Exhibit B.

Financial Assistance Application Lifecycle Form

Use this form to track your potential award from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

If renewal or direct appropriation, complete sections I, II, IV & V only. Section III is not required.

If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

****CONCEPTION****

Section I: Funding Opportunity Information - To Be Completed by Requester

Award type: Direct Appropriation (no application) Subrecipient Award Direct Award

Award Renewal? Yes No

Lead Fund # and Department:	District Attorney
Name of Funding Opportunity:	Oregon Behavioral Health Deflection Program

Funding Source: Federal – Direct Federal – Pass through State Local

Requestor Information: (Name of staff initiating form)	John D. Wentworth
Requestor Contact Information:	807 Main St., Oregon City, OR 97045; 503-655-8353; jwentworth@clackamas.us
Department Fiscal Representative:	John D. Wentworth
Program Name & Prior Project #: (please specify)	Behavioral Health Deflection Program

Brief Description of Project:

Newly invited opportunity for counties to develop and implement a deflection program to assist with newly created misdemeanor for drug possession. Counties are able to develop local programs specific to their communities with the money provided. This application is for the first half of the funding, with an opportunity to apply for the second half of the funding later in 2024.

Name of Funding Agency: Oregon Criminal Justice Commission

Notification of Funding Opportunity Web Address: https://cjc-grants.smapply.io/prog/oregon_behavioral_health_deflection_program_23-25/

OR

Application Packet Attached: Yes No

Completed By: John D. Wentworth Date: April 18, 2024

**** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE ****

Section II: Funding Opportunity Information - To Be Completed by Department Fiscal Rep

Competitive Application Non-Competing Application Other

Assistance Listing Number (ALN), if applicable:		Funding Agency Award Notification Date:	
Announcement Date:		Announcement/Opportunity #:	
Grant Category/Title	Oregon Behavioral Health Deflection Pro.	Funding Amount Requested:	\$475,254.50
Allows Indirect/Rate:	Yes	Match Requirement:	No
Application Deadline:	April 23, 2024	Total Project Cost:	\$475,254.50/\$950,509
Award Start Date:	April 1, 2024	Other Deadlines and Description:	
Award End Date	June 30, 2025		
Completed By:	John D. Wentworth	Program Income Requirements:	None
Pre-Application Meeting Schedule:			

Additional funding sources available to fund this program? Please describe:
This is new funding provided by the 2024 state legislature, eligible for use from April 1, 2024 to June 30, 2025.

How much General Fund will be used to cover costs in this program, including indirect expenses?
No general fund anticipated.

How much Fund Balance will be used to cover costs in this program, including indirect expenses?
No fund balance anticipated.

In the next section, limit answers to space available.

Section III: Funding Opportunity Information - To Be Completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. *How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?*

New law HB 4002 establishes a misdemeanor crime for possession that would incur a maximum penalty of 6 months in jail, and promotes pathways for substance abusers to be deflected away from jail and into treatment support for substance use disorder. The District Attorney's Office is facilitating the program, and will work with the County Behavioral Health Division to establish a navigation team to stand up an early phase of the deflection program.

2. *Who, if any, are the community partners who might be better suited to perform this work?*

Because of the possession charge, these individuals will naturally have touchpoints with law enforcement and the District Attorney Office, necessitating the District Attorney Office coordinating role to support this work. There will be touchpoints beyond initial encounter with these clients to work with behavioral health professions, and providers in the Behavioral Health Resource Network (BHRN).

3. *What are the objectives of this funding opportunity? How will we meet these objectives?*

Initial funding is a planning grant to stand up and create a locally designed program. The Local Public Safety Coordinating Council (LPSCC) will meet to design and confirm the implementation of what Clackamas County designs for its community with the funding provided. The objective is to create treatment options for those who suffer from substance addiction and would otherwise immediately enter the criminal justice system.

4. *Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?*

No.

Organizational Capacity:

1. *Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?*

While the District Attorney's Office has qualified to execute this work, these funds will be used to hire additional and appropriate level staffing to implement this program to include a deputy district attorney and deflection program coordinator. Receiving funds through this initial planning grant should provide sufficient timing to hire staff ahead of the implementation of the new misdemeanor charge which begins on September 1, 2024.

2. *Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?*

Yes. There are coordinating partnerships required with providers in the Behavioral Health Resource Network, law enforcement, and the courts. The funding from these grants help to support this work.

3. *If this is a pilot project, what is the plan for sun setting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?*

While this is not exactly a "pilot project" as the District Attorney's Office has implemented a similar program (Law Enforcement Assisted Diversion), this program will be an upscale of that effort. The legislative plan is to continue this funding (and, perhaps increase it) into the future.

4. *If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?*

This is a new program. The early implementation of this program will require adequate data collection and advocacy with the 2025 state legislature to ensure adequate funding can continue for this work. Funding should be budgeted in the same way all programs are funded which include state authorized funding that are approved in a biennium.

Collaboration

1. List County departments that will collaborate on this award, if any.

District Attorney; Clackamas County Sheriff Office; Health, Housing and Human Services (H3S) Behavioral Health Division, and the Juvenile Department.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

To be determined. The Criminal Justice Commission has not established that yet.

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

The grant will help fund initial planning of this work. A key and early question will be "what defines success?" The new program coordinator will be tasked with data collection that will help to inform how the program evolves.

3. What are the fiscal reporting requirements for this funding?

No reporting requirements are yet identified by the Criminal Justice Commission. To be evaluated September 2024.

Fiscal

1. Are there other revenue sources required, available, or will be used to fund the program? Have they already been secured? Please list all funding sources and amounts.

No. This is new funding for a new program established by the state legislature.

2. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, in-kind, local grant, etc.)?

No matching requirement for these funds.

3. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are those sources?

Initial funding for this work are for planning purposes. Indirect costs may be better known closer to application of the second half of funding later in 2024.

Other information necessary to understand this award, if any.

HB 4002 creates an allowance for counties to initiate this work. This work is not a mandate. The funding provided will inform the program that is built, and help to determine if there should be advocacy to the state legislature in 2025 for increased program funding.

Program Approval:

John D. Wentworth

April 18, 2024

Name (Typed/Printed)

Date

Signature

**** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR ****

****ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY, COUNTY FINANCE OR ADMIN WILL SIGN****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)

Name (Typed/Printed) Date Signature

DEPARTMENT DIRECTOR (or designee, if applicable)

John D. Wentworth

April 18, 2024



Name (Typed/Printed)

Date

Signature

FINANCE ADMINISTRATION

Elizabeth Comfort

4.18.2024



Name (Typed/Printed)

Date

Signature

EOC COMMAND APPROVAL (WHEN NEEDED FOR DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)

Name (Typed/Printed) Date Signature

Section V: Board of County Commissioners/County Administration

(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)

For applications \$150,000 and below:

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

For applications up to and including \$150,000 email form to BCC staff at CA-Financialteam@clackamas.us for Gary Schmidt's approval.

For applications \$150,000.01 and above, email form with Staff Report to the Clerk to the Board at ClerktotheBoard@clackamas.us to be brought to the consent agenda.

BCC Agenda Item #: 20240425 III.A.4

Date: 04/25/2024

OR

Policy Session Date:



County Administration Attestation

County Administration: re-route to department at

and

Grants Manager at financegrants@clackamas.us

when fully approved.

Department: keep original with your grant file.