



Jane E. Vetto
County Counsel

September 26, 2024

BCC Agenda Date/Item: _____

Board of Clackamas County
Commissioners

Scott C. Ciecko
Amanda Keller
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Hong Huynh
Caleb Huegel
Angela Hajihashemi
Assistants

**Approval of a Federal Subrecipient Grant Agreement 24-046
To provide \$1,000,000 of ARPA funds to the North Clackamas
School District for capital repairs of the Wichita Center.
No County General Funds will be used.**


Previous Board Action/Review	June 26, 2024 Joint Board Meeting with NCSD to approve terms of Sale of Wichita School, use of NCSD Fields and Facilities IGA, NCPRD Board of Directors Meeting September 18, 2024		
Performance Clackamas	Which indicator of success does this item affect? Building Trust Through Good Government		
Counsel Review	Yes, JM, AN	Procurement Review	N/A, Item is an IGA
Contact Person	Jeffrey D. Munns	Contact Phone	(503) 742-5984

EXECUTIVE SUMMARY: Both the Board of County Commissioners and the Board of Directors of NCPRD have approved a plan to approve a sale by NCPRD to the North Clackamas School District of the Wichita Center for \$2,375,000 in addition to receiving a \$1,000,000 credit for field and facility use by NCPRD for recreational programming. The County is providing a \$1,000,000 ARPA grant for facility repairs at the Wichita Center.

The purpose of the ARPA funds provided in this grant agreement is to provide funds to allow for roof replacement, HVAC and seismic upgrades to the property. The property is located at 6031 SE King Rd., Milwaukie, Oregon. The parties intend to close the sale of the property on September 30, 2024.

RECOMMENDATION: Staff recommends approval of this agreement to provide \$1,000,000 of ARPA grant funds to the North Clackamas School District for capital repairs of the Wichita Center.

Respectfully submitted,


Jeffrey D. Munns
Assistant County Counsel

For Filing Use Only

**CLACKAMAS COUNTY, OREGON
FEDERAL SUBRECIPIENT GRANT AGREEMENT 24-046**

Program Name: ***North Clackamas School District-Wichita Center Capital Improvements***

This Agreement is between **Clackamas County**, Oregon, acting by and through its
Department of Administration ("COUNTY"),
and the **NORTH CLACKAMAS SCHOOL DISTRICT** ("SUBRECIPIENT"), an Oregon Municipal Entity.

Clackamas County Data

Grant Accountant: <i>Bouavieng Bounnam</i>	Program Manager: <i>Christopher Hawkins</i>
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 (503) 742-5422 bbounnam@clackamas.us	Clackamas County – Administration 2051 Kaen Road Oregon City, OR 97045 (503) 894-0077 chawkins@clackamas.or.us

Subrecipient Data

Finance/Fiscal Representative:	Program Representative:
Finance/Fiscal Representative: Cindy Detchon Special Projects Administrator 12400 SE Freeman Way Milwaukie, OR 97222 (503) 250-3184 detchonc@nclack.k12.or.us	Program Representative: Cindy Detchon Special Projects Administrator 12400 SE Freeman Way Milwaukie, OR 97222 (503) 250-3184 detchonc@nclack.k12.or.us
UEI: ER4UTU4KEFJ8	

RECITALS

1. The American Rescue Plan Act of 2021 (ARPA) provides State and Local Fiscal Recovery Funds to address the public health and economic impacts of the COVID-19 pandemic.
2. COUNTY has identified a critical need for affordable housing to support low- and moderate-income residents affected by the economic downturn caused by the pandemic.
3. COUNTY aims to utilize ARPA funds to support initiatives that will increase the availability of services for vulnerable populations, and promote long-term economic recovery.
4. COUNTY's ARPA funds will be used to cover the costs in part to re-roof and replace HVAC systems at the Wichita Center at 6031 SE King Road, Milwaukie, Oregon.
5. SUBRECIPIENT provides services to students and members of the community directly and through co-location of other service providers at this location. Services provided by SUBRECIPIENT include a food pantry, clothes closet, services to homeless students, aftercare administration through the CARE and 21st Century grant programs, an oral health/dental program. Services provided by partner agencies include the Clackamas County Children's Commission, (Head Start, Early Head Start, Family outreach services); Ready, Set, Go!; Oregon Department of Human Services, family counselor; Clackamas County Public Health, WIC services; Clackamas County Behavioral Health; North Clackamas Education Foundation.
6. In compliance with SLFRF expenditure category revenue replacement for the provision of government services, SUBRECIPIENT will use provided funds to provide a facility with safe and

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adequate roofing and HVAC amenities, and to address COUNTY's concerns with negative economic impacts deriving from the COVID-19 pandemic and its after-effects.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement (this "Agreement") the COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and will terminate on December 31, 2026, unless sooner terminated or extended pursuant to the terms hereof. Eligible expenses for this Agreement may be charged during the period beginning **September 30, 2024** and expiring **December 31, 2026**, subject to additional restrictions set forth below and to the exhibits attached hereto, and unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Exhibit A, Subrecipient Statement of Program Objectives & Performance Reporting, attached hereto and incorporated by reference herein. SUBRECIPIENT agrees to carry out the Program in accordance with the terms and conditions of this Agreement and according to SUBRECIPIENT scope of work in Exhibit A.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement. The County is requiring that the SUBRECIPIENT adhere to all applicable laws and regulations. Furthermore, though not necessarily mandated under SLFRF program funding requirements for this specific funding award, the County has opted to require the SUBRECIPIENT to perform and comply with all activities and programs, within the standard funding requirements set forth within the U.S. Department of the Treasury ("Treasury") that is the source of this federal grant funding, in addition to compliance with requirements of Section 603(c) of the Social Security Act, Treasury's regulations implementing that section, and supplementary guidance issued by the Treasury on these funds, including but not limited to the State and Local Fiscal Recovery Funds ("SLFRF") Final Rule, and other required information in the Exhibits, which are attached to and made a part of this Agreement by this reference. SUBRECIPIENT shall ensure compliance with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State and Federal funding requirements.
4. **Grant Funds.** COUNTY's funding for this Agreement is the State and Local Fiscal Recovery Funds ("SLFRF"; Assistance Listing Number ["ALN"] #: 21.027; Federal Award #: 1505-0271) issued to COUNTY by the United States Treasury. The maximum, not to exceed, grant amount COUNTY will pay is **\$1,000,000**. This is a cost reimbursement grant award and is conditional upon compliance with the terms herein. Disbursements will be made in accordance with the schedule and requirements contained in Exhibit D, Reimbursement Request. Failure to comply with the terms of this Agreement may result in County pursuing any right or remedy available to it at law, in equity, or under this Agreement including, but not limited to, withholding of payment. Funds advanced and unspent must be returned to COUNTY within 30 days of the end of termination period in Section 1 if award conditions are not met.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date of eligible services period, as identified in Section 1 above, or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed

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before SUBRECIPIENT performs work subject to the amendment.

6. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term as follows:

- a. Upon SUBRECIPIENT's default under this Agreement, following thirty (30) days' written notice with an opportunity to cure;
- b. Upon mutual agreement by COUNTY and SUBRECIPIENT;

Upon completion of improvements or upon termination of this Agreement, any unexpended balances shall remain with COUNTY.

7. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:

- a. Has already accrued hereunder;
- b. Comes into effect due to the expiration or termination of the Agreement; or
- c. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.

8. **Funds Available and Authorized.** COUNTY certifies that it has received an award sufficient to fund this Agreement.

9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 8.

10. Federal and State Procurement Standards

- a) 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. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a

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proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.

- d) **Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms.** SUBRECIPIENT shall take all necessary affirmative steps to assure that small & minority businesses, women’s business enterprises, and labor surplus area firms are used when possible when contracting for services or soliciting for potential resources, per 2 CFR 200.321.

11. General Agreement Provisions.

- a) **Non-appropriation Clause.** (removed).
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and defend COUNTY, and its elected officials, officers, employees, and agents, from and against all claims, actions, losses, liabilities, including reasonable attorney and accounting fees, and all expenses incidental to the investigation and defense thereof, arising out of or based upon (1) SUBRECIPIENT’s negligent or willful acts or those of its employees, agents, or those under SUBRECIPIENT’s control; or (2) SUBRECIPIENT’s acts or omissions in performing under this Agreement including, but not limited to, any claim by State or Federal funding sources that SUBRECIPIENT used funds for an ineligible purpose. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT’s actions, employees, agents or otherwise with respect to those under its control.
- c) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- d) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- f) **Governing Law.** This Agreement, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between COUNTY and SUBRECIPIENT that arises out of or relates to the performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the COUNTY of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. SUBRECIPIENT, by execution of this Agreement, hereby consents to the personal jurisdiction of the courts referenced in this section.

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- g) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- i) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third-party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- l) **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- m) **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- n) **Survival.** All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Article II, Sections 3, 7, 11 (a), (b), (c), (f), (g), (i), (j), (k), (l), and (m), and all other rights and obligations which by their context are intended to survive.

12. Exhibits and Attachments.

This Agreement is comprised of the following exhibits and attachments:

- Exhibit A: SUBRECIPIENT Scope of Work & Performance Reporting
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Lobbying Certificate
- Exhibit D: Required Financial Reporting and Payment Request
- Exhibit E: General Administrative and Federal Terms and Conditions
- Exhibit F: Insurance Requirements
- Exhibit G: Final Financial Report
- Exhibit H: SUBRECIPIENT's Approved Proposal

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

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

CLACKAMAS COUNTY

NORTH CLACKAMAS SCHOOL DISTRICT

By: _____

By: _____

Its: _____

Its: _____

Dated: _____

Dated: _____

Approved to Form

By: _____
County Counsel

Dated: _____

EXHIBIT A
SUBRECIPIENT SCOPE OF WORK AND PERFORMANCE REPORTING

PROGRAM NAME: State and Local Fiscal Recovery Funds (SLFRF) American Rescue Plan Act, ALN # 21.027	AGREEMENT No. 24-046
SUBRECIPIENT: NORTH CLACKAMAS SCHOOL DISTRICT	

Program Objectives

SUBRECIPIENT’s project is described in Exhibit H, SUBRECIPIENT’s approved proposal.

Performance Standards

SUBRECIPIENT is responsible for compliance with the applicable terms and conditions in the SLFRF Final Rule published by the United States Treasury in the implementation of this Project. While certain provisions of 2 CFR 200 (the Uniform Guidance) is referenced in this agreement, it is not required under the Revenue Replacement category for this Project. Any provisions from 2 CFR 200 that are included are County requirements, not Federal requirements, and are intended to align with County policies and best practices.

Reporting Requirements

SUBRECIPIENT will provide updates on the pre-construction activities funded in this Agreement on a quarterly basis. Reporting will be provided on SUBRECIPIENT letterhead, reference the information provided in the table header to this Exhibit A, above, and include:

1. Name of Contractor(s) engaged in the project
2. Estimated percentage of project completed
3. Estimated date of project completion
4. Total current project estimated cost to include known cost overruns
5. Narrative description of project progress
 - a. Narrative should include any anticipated barriers to completion (supply chain issues, contractor availability, permitting or other delays)
 - b. If date in #3 has changed from previous reports to COUNTY, an explanation as to the date change should be provided.
 - c. If amount in #4 has changed from previous reports to COUNTY, an explanation as to the total estimated cost change should be provided.
6. For FINAL report only
 - a. Timeline and expectations for transitioning to the construction phase and anticipated number of affordable housing units.

Program reports shall be submitted to Christopher Hawkins at chawkins@clackamas.us.

Reporting submission deadlines are as follows:

July 5, 2025

October 5, 2025

January 5, 2026

April 5, 2026

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July 5, 2026

October 5, 2026 (FINAL)

All funds provided under this Agreement must be obligated by December 31, 2024, and spent by December 31, 2026. Quarterly reporting will be extended by COUNTY as necessary if a no-cost extension is issued.

Significant Developments

SUBRECIPIENT will notify COUNTY Program Manager if events with significant impact on pre-construction activities occur between scheduled reporting periods. Such impacts can include:

- Problems, delays, or adverse conditions which will materially impair the ability of SUBRECIPIENT to meet the objectives of this Agreement and the SLFRF program. A disclosure by SUBRECIPIENT shall include a statement of the action taken or contemplated in light of the significant impact and any assistance needed from COUNTY to resolve the situation.
- Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

EXHIBIT B
SUBRECIPIENT Program Budget

PROGRAM NAME: State and Local Fiscal Recovery Funds (SLFRF) American Rescue Plan Act, ALN # 21.027	AGREEMENT No. 24-022
SUBRECIPIENT: North Clackamas School District	

SUBRECIPIENT will use all provided funds for costs related to the project including but not limited to: replacement of roof, HVAC and seismic upgrades. All costs shall be documented through contractor invoices payable by SUBRECIPIENT.

Funds Provided: **\$1,000,000**

EXHIBIT C:
CONGRESSIONAL LOBBYING CERTIFICATE

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions[as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The Authorized Representative certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Organization understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Organization Name Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

EXHIBIT D
REQUIRED FINANCIAL REPORTING AND PAYMENT REQUEST

PROGRAM NAME: State and Local Fiscal Recovery Funds (SLFRF) American Rescue Plan Act, ALN # 21.027	AGREEMENT No. 24-046
SUBRECIPIENT: NORTH CLACKAMAS SCHOOL DISTRICT	

SUBRECIPIENT will receive grant funds on a reimbursement basis.

Grant funds will be released to SUBRECIPIENT via the following processes:

1. SUBRECIPIENT receives contractor invoices for costs eligible under this award.
2. SUBRECIPIENT reviews and approves invoices.
3. SUBRECIPIENT submits payment request to COUNTY with complete contractor invoices.
Payment request may be for any amount (up to the maximum award) for which SUBRECIPIENT has eligible contractor invoices. Each invoice must contain or be accompanied by a description of the work performed.
4. SUBRECIPIENT will receive approved reimbursement amount and will pay CONTRACTOR for expenses incurred.
5. SUBRECIPIENT request for payment must be submitted on SUBRECIPIENT letterhead, dated, assigned an invoice number generated by SUBRECIPIENT, refer to subrecipient agreement 24-046, include "State and Local Fiscal Recovery Fund ("SLFRF") Expenditure Category: 6.1 - Revenue Replacement," include a description of the work performed and list of supporting attachments, be signed by an authorized representative of SUBRECIPIENT with name and title printed, and include the following certification language on the invoice:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

If this process results in multiple requests for payment (up to the award maximum), SUBRECIPIENT will include a running total of amounts previously requested (including invoice numbers), current request, and balance remaining.

The County reserves the right to review and approve or reject any submitted invoice at its discretion to ensure compliance with the project scope and funding requirements. Invoices deemed inappropriate or unsupported may not be reimbursed.

The County retains the right to audit all financial records and inspect the project site to verify the proper use of funds and adherence to project guidelines.

EXHIBIT E
General Administrative and Federal Terms & Conditions

13. Federal Funds

- a) By signing this Agreement, SUBRECIPIENT certifies neither it nor its employees, contractors, subcontractors, or subrecipients who will perform the Program activities described herein are currently employed by an agency or department of the federal government.
- b) COUNTY has determined:
 - Entity is a subrecipient
 - Entity is a contractor
 - Not applicable
- c) Assistance Listing Number of federal funds paid through this Agreement: 21.027

14. Administrative Requirements. SUBRECIPIENT accepts among its duties and responsibilities the following:

- a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
- b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned.” All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY within 15 days.
- c) **Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.
- d) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of the SUBRECIPIENT.
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- f) **Match.** Matching funds are not required for this Agreement.
- g) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. At no time may budget modification change the scope of the original grant application or Agreement.
- h) **Indirect Cost Recovery.** SUBRECIPIENT will not request, and forgoes indirect cost recovery on this award.

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- i) **Payment.** SUBRECIPIENT must submit requests for payment according to the processes outlined in Exhibit D: Required Financial Reporting and Payment Request.
- j) **Performance Reporting.** SUBRECIPIENT shall comply with reporting requirements as specified in Exhibit A.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit payment requests as required in Exhibit D: Required Financial Reporting and Payment Request.
- l) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.344—Closeout. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial, performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than the date outlined in Exhibit A: Subrecipient Scope of Work and Performance Reporting.
- m) **Unique Entity Identifier and Contractor Status.** SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database using its Unique Entity Identifier (“UEI”), located at <http://www.sam.gov>.
- n) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR Part 180. These rules restrict subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- o) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U.S.C. 1352. In addition, the SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (3) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- p) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (“FAC”) within 9 months from SUBRECIPIENT’s fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from SUBRECIPIENT’s fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- q) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.332. The Federal government, and their duly authorized representatives shall have access to such

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financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.

- r) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years from the end of program date, or such longer period as may be required by the Federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.334-338.
- s) **Certification of Compliance with Grant Documents.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for the State and Local Fiscal Recovery Funds Final Rule, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as COUNTY, under those grant documents.
- t) SUBRECIPIENT is responsible for compliance with Section 503 of the Social Security Act, regulations adopted by Treasury pursuant to Section 603(f) of the Act, and the SLFRF Final Rule, published at the U.S. Treasury's website (as amended, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>).
- u) **Real Property.** SUBRECIPIENT is required to comply with 2 CFR 200.311. Real property acquired or improved under this Agreement will be used for its originally authorized purpose as long as it is needed for that purpose. When property is no longer needed for the originally authorized purpose, SUBRECIPIENT will obtain disposition instructions from COUNTY prior to disposition or encumbrance of SUBRECIPIENT's title to the property. Disposition will occur in accordance with one of the three disposition alternatives set forth in 2 CFR 200.311, as determined by COUNTY in its sole discretion. This provision will expressly survive termination of the Agreement.

15. Default

- a) **Subrecipient's Default.** SUBRECIPIENT will be in default under this Agreement upon the occurrence of the following:
 - a. SUBRECIPIENT fails to use the grant funds for eligible purposes described in Exhibit A;
 - b. SUBRECIPIENT fails to complete the project by December 31, 2026;
 - c. Any representation, warranty or statement made by SUBRECIPIENT in this Agreement or in any documents or reports relied upon by COUNTY to measure the Program, the expenditure of grant funds or the performance by SUBRECIPIENT is untrue in any material respect when made;
 - d. After thirty (30) days' written notice with an opportunity to cure, SUBRECIPIENT fails to comply with any term or condition set forth in this Agreement and its exhibits including, but not limited to Exhibit J;
 - e. A petition, proceeding, or case is filed by or against SUBRECIPIENT under federal or state bankruptcy, insolvency, receivership, or other law.
- b) **County's Default.** COUNTY will be in default under this Agreement if, after thirty (30) days' notice and opportunity to cure, COUNTY fails to perform a material obligation under this Agreement provided, however, that failure to disburse grant funds due to lack of appropriation shall not constitute a default of COUNTY.

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16. Remedies

- a) **County's Remedies.** In the event of SUBRECIPIENT's default, COUNTY may, at its option, pursue any or all remedies available to it under this Agreement, at law, or in equity including, but not limited to: (1) withholding SUBRECIPIENT grant funds until compliance is met; (2) reclaiming grant funds in the case of omissions or misrepresentations in financial or programmatic reporting; (3) requiring repayment of any funds used by SUBRECIPIENT in violation of this Agreement; (4) termination of this Agreement; (5) declaring SUBRECIPIENT ineligible for receipt of future awards from COUNTY; (6) initiation of an action or proceeding for damages, declaratory, or injunctive relief; and/or (7) in the event the project is not completed by June 5, 2025, and no extension to the Agreement has been approved by COUNTY, requiring SUBRECIPIENT to repay all funds issued under this Agreement.
- b) **Subrecipient's Remedies:** In the event COUNTY is in default, and whether or not SUBRECIPIENT elects to terminate this Agreement, SUBRECIPIENT's sole remedy for COUNTY's default, subject to the limits of applicable law or in this Agreement, is reimbursement for eligible costs incurred in accordance with this Agreement, less any claims COUNTY may have against SUBRECIPIENT. In no event will COUNTY be liable to SUBRECIPIENT for expenses related to termination of this Agreement or for any indirect, incidental, consequential or special damages.

17. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT.
- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any further implementing regulations issued by the U.S. Treasury Department.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to this Agreement.
- e) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request COUNTY to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem

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for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.

- f) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.1) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (including those set forth in 2 CFR 200.303(e)) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- g) **Mileage reimbursement.** Mileage reimbursement is not provided through this award.
- h) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
- Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - Procure a commercial sex act during the period of time the award is in effect; or
 - Used forced labor in the performance of the Agreement or subaward under this Agreement.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

EXHIBIT F
SUBRECIPIENT INSURANCE REQUIREMENTS

During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below, and require the same insurance of subcontractors:

1) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.

2) **Commercial General Liability.**

Required by COUNTY NOT Required by COUNTY

SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, elected officials, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

3) **Commercial Automobile Liability.**

Required by COUNTY NOT Required by COUNTY

SUBRECIPIENT shall obtain at SUBRECIPIENT expense and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000, or SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of the agreement, Personal auto coverage. The limits shall be no less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000 property damage.

4) **Professional Liability.**

Required by COUNTY NOT Required by COUNTY

SUBRECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, elected officials and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.

5) **Abuse and Molestation Clause.**

Required by COUNTY NOT Required by COUNTY

As part of the Commercial General Liability policy, SUBRECIPIENT shall obtain Abuse and Molestation coverage in a form and with coverage satisfactory to COUNTY covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person

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for whom SUBRECIPIENT is responsible including but not limited to SUBRECIPIENT and SUBRECIPIENT's employees and volunteers. Policy endorsement's definition of an insured shall include SUBRECIPIENT, and SUBRECIPIENT's employees and volunteer. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000.

- 6) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, elected officials, officers, and employees" as an additional insured.
- 7) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days' notice of cancellation provision shall be physically endorsed on to the policy.
- 8) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 9) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. COUNTY and its, elected officials, employees and officers must be named as an additional insured on the Certificate of Insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 10) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
- 11) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
- 12) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.

Program Name: ARPA Revenue Replacement	Agreement #: 24-046
Federal Award #: 1505-0271	Date of Submission: XX/XX/XX
Subrecipient: NORTH CLACKAMAS SCHOOL DISTRICT	
Has Subrecipient submitted all requests for reimbursement? Y/N	
Has Subrecipient met all programmatic closeout requirements? Y/N	

Exhibit G: Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this Agreement

Total Funds <u>authorized</u> on this agreement:	\$1,000,000
Total Funds <u>requested</u> for reimbursement on this agreement:	
Total Funds <u>received</u> on this agreement:	
Balance of unexpended Funds (Line 1 minus Line 3):	

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

7.0 Preliminary Construction Cost Estimate

The attached engineer’s opinion of probable cost has been developed by ZCS. ZCS has a successful record of completing seismic rehabilitation projects within the State of Oregon. The prices provided in the attached cost estimate have been developed using the extensive list of past projects as a baseline for this project. These prices are based on Oregon BOLI wage rates. The cost estimate is broken down into multiple line items associated with each major task (general conditions, foundation, structural steel, MEP, etc) associated with the rehabilitation. Additional line items are included for design associated permit costs, and owner construction management. A complete breakdown of the cost estimate can be found in Appendix E. Based upon ZCS’s previous experience and discussions with site personnel the buildings contain hazardous materials. These materials will need to be dealt with on a case-by-case basis as they are encountered during the project.

DIRECT COST	
Construction	\$ 1,714,000.00
Engineering	\$ 279,200.00
Construction Management	\$ 59,000.00
Relocation	\$ 24,600.00
Construction Contingency	\$ 327,660.00
TOTALS AND SUMMARY	
Total Cost Estimate	\$ 2,404,460.00
Total Area	29,200
Cost/Square Foot	\$ 82.34