



**DAN JOHNSON**  
DIRECTOR

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

October 6, 2022

Board of County Commissioners  
Clackamas County

**Approval of Intergovernmental Agreement between Clackamas County and Southern Oregon University Market Research Institute for a Business Friendly Environment Study. Total value is \$13,750. Lottery Dollars allocated for the Office of Economic Development operations. These are *not* Lottery Dollars earmarked for the Board's Economic Development Awards Program, as authorized by the Board on September 20, 2022. County General Funds are not involved.**

<b>Purpose/Outcome</b>	Purpose of this study is to develop a baseline estimate of the proportion of businesses working in Clackamas County that report a business-friendly environment in 2022, as well as to suggest areas for improvement that will support business stability and growth.
<b>Dollar Amount and Fiscal Impact</b>	\$13,750
<b>Funding Source</b>	Lottery Dollars allocated for the Office of Economic Development operations. These are <i>not</i> Lottery Dollars earmarked for the Board's Economic Development Awards Program, as authorized by the Board on September 20, 2022.
<b>Duration</b>	Current date – January 30, 2023
<b>Previous Board Action/Review</b>	Presented at Issues Consent on October 4 <sup>th</sup> , 2022
<b>Strategic Plan Alignment</b>	<p>1. This study supports the Board's goal that by 2024, 75% of businesses working in Clackamas County report a business-friendly environment that supports stability and growth, by surveying the local business community to establish a baseline by which to measure this goal.</p> <p>2. This study supports the Office of Economic Development purpose of providing leadership, market research, planning, analysis and coordination services to policymakers, community partners and businesses so they can locate or expand their business in Clackamas County.</p>
<b>Counsel Review</b>	Date of Counsel review: ARN 8/3/2022
<b>Procurement Review</b>	<p>(Please check yes or no for procurement review. If the answer is "no," please provide an explanation.)</p> <p>1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/></p> <p>2. Item is an IGA</p>

**BACKGROUND:** The Board of County Commissioners Performance Clackamas goal to *Grow a Vibrant Economy* include a specific target, that by 2024, 75% of businesses working in Clackamas County will report a business-friendly environment that supports stability and growth.

In support of this goal, the Southern Oregon University Market Research Institute, on Clackamas County's behalf, will survey the local business community to develop a baseline estimate of the proportion of businesses working in Clackamas County that report a business friendly environment in 2022. The Clackamas Small Business Development Center (SBDC) referred staff to the Southern Oregon University Market Research Institute for this project as they serve as the lead for this type of work within the statewide SBDC network. The Institute will also provide recommendations for areas of economic development improvement in the county that will support business stability and growth.

**RECOMMENDATION:** Staff recommends the Board approve the Intergovernmental Agreement between Clackamas County and Southern Oregon University Market Research Institute for a Business Friendly Environment Study.

Respectfully submitted,

A handwritten signature in blue ink that reads "Sarah Eckman". The signature is written in a cursive, flowing style.

Sarah Eckman  
Assistant Director  
Department of Transportation & Development

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN CLACKAMAS COUNTY AND  
SOUTHERN OREGON UNIVERSITY MARKET RESEARCH INSTITUTE**

THIS AGREEMENT (this “Agreement”) is entered into and between Clackamas County (“County”), a political subdivision of the State of Oregon, and Southern Oregon University (“Agency”), an Oregon municipal corporation, collectively referred to as the “Parties” and each a “Party.”

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

- The County’s Performance Clackamas Plan contains a goal of Growing a Vibrant Economy which includes a target that by 2024, 75% of businesses working in Clackamas County will report a business-friendly environment that supports stability and growth.
- The Clackamas Small Business Development Center (SBDC) referred the County to Agency, as it served as the lead agency for this type of work within the statewide SBDC network. As part of the work, Agency will also provide recommendations for areas of economic development improvement in the county that will support business stability and growth.
- In support of this goal, Agency, through its Market Research Institute, on Clackamas County’s behalf, will survey the local business community to develop a baseline estimate of the proportion of businesses working in Clackamas County that report a business-friendly environment in 2022.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or by January 30, 2023, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein (“Work”).
3. **Consideration.** The County agrees to pay Agency, from available and authorized funds, a sum not to exceed Thirteen thousand seven hundred and fifty dollars (\$13,750) for accomplishing the Work required by this Agreement. Consideration is on a fixed-fee basis, to be paid following completion of the Work.
4. **Payment.** Unless otherwise specified, the Agency shall submit a single invoice upon completion of the Work performed and shall include the total amount billed to date by the Agency prior to the current invoice. The invoice shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses

for which reimbursement is claimed. Payments shall be made to Agency following the County's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.

**5. Representations and Warranties.**

- A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
- B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
- C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**6. Termination.**

- A. Either the County or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either the County or the Agency may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The County or the Agency shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. The County may terminate this Agreement in the event the County fails to receive expenditure authority sufficient to allow the County, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project under this Agreement is prohibited or the County is prohibited from paying for such work from the planned funding source.

E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

**7. Indemnification.**

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the Agency, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the Agency agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the Agency or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the Agency has a right to control.

8. **Insurance.** The Agency agrees to furnish the County with evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of Clackamas County, and their officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Agreement. If self-insured, Agency shall provide documentation to the County of Agency's self-insured status by completing the Self-Insurance Certification form provided by the County.

9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

A. Cindy Moore or their designee will act as liaison for the County.

**Contact Information:**

Cindy Moore, Interim Senior Business & Economic Development Coordinator  
Clackamas County - Office of Economic Development  
150 Beaver Creek Road  
Oregon City, OR 97045  
971-284-1002  
cmoore@clackamas.us

- B.** Gregory Perkinson, Vice President for Finance and Administration or their designee will act as liaison for the Agency.

**Contact Information:**

Gregory Perkinson, Vice President for Finance and Administration  
Southern Oregon University  
1250 Siskiyou Blvd.  
Ashland, OR 97520

**10. General Provisions.**

- A. Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then 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. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Work Product.** All work performed under this Agreement shall be considered work made for hire and shall be the sole and exclusive property of the County. The County shall own any and all data, documents, plans, copyrights, specifications, working papers and any other materials produced in connection with this Agreement. On completion or termination of the Agreement, the Agency shall promptly deliver these materials to the County’s project manager.
- F. **Hazard Communication.** Agency shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County’s request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- G. **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.
- H. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- I. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained.

Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

- J. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- K. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- L. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- M. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- N. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (E), (G), (H), (I), (J), (L), (O), (R), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- Q. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.



- R. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
  
- S. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County’s reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
  
- T. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County (“Confidential Information”). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.
  
- U. **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.

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**Clackamas County**

**Southern Oregon University**

\_\_\_\_\_  
Chair, Board of County Commissioners

\_\_\_\_\_  
Gregory Perkinson, Vice President for  
Finance and Administration

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Exhibit A

### **Southern Oregon University Market Research Institute Clackamas County Business-Friendly Environment Study Scope of Work with Time and Cost Estimates**

#### **I. Introduction**

##### **Background**

The Clackamas County Board of Commissioners has developed a set of strategic goals for the five-year period from 2021 to 2025. As part of a strategic priority to grow a vibrant economy, they would like to demonstrate that by 2024, 75% of businesses working in Clackamas County will report a business-friendly environment that supports stability and growth.

##### **Study Goals**

The purpose of this study is to develop a baseline estimate of the proportion of businesses working in Clackamas County that report a business-friendly environment in 2022, as well as to suggest areas for improvement that will support business stability and growth.

Clackamas County may also choose to make the final report available to the public.

#### **II. Project Outline**

##### **Methodology**

The study will include a summary of Clackamas County's business population size and characteristics in order to provide an overview of the types of businesses served by Clackamas County as well as provide population information to support statistical analysis of the survey results.

The focus of the study will be a survey of businesses with a physical location in Clackamas County. The survey will ask business owners to evaluate the extent to which Clackamas County has a business-friendly environment that supports stability and growth. It will also identify current strengths as well as areas for improvement. A pre-survey focus group session will be used to ensure the survey covers aspects of the business environment that are important to local businesses.

The survey will be available to Clackamas County business owners as an online form, accessible via web link or QR code. An email and paper flyer will explain the purpose of the survey and provide the survey link/QR code. Clackamas County and any cities that choose to participate will be given an email with web link to the survey to distribute to existing business owner e-mail lists. The survey may also be made available on Clackamas County websites. A paper flyer with QR code will be provided for distribution at physical locations, including Business Recovery Centers and County offices that interface with business owners.

Businesses that interact more frequently with the County will be more likely to be represented in survey findings. The survey findings will not describe the opinions of business communities excluded from the sample due to the distribution method (e.g., businesses not on any County or City e-mail lists). However, focusing primarily on businesses that engage directly with the county will highlight areas where Clackamas

County can make direct, impactful changes to support business stability and growth. The business population size and characteristics will be used to describe the extent to which the survey findings reflect the business population as a whole.

A minimum of 100 responses is recommended for reliability of results. The project timeline may be extended if additional time is required to receive a sufficient number of responses. The survey will be limited to approximately 10 minutes in length with a small number of open-ended response questions to encourage a high response rate.

**Elements**

All work will be performed by the SOU MRI, except where noted.

- Summary of Business Population Size and Characteristics
  - Industries
  - Employment
  - Minority Ownership
- Business Owner Survey
  - Survey Design, including
    - Development of initial survey questions based on Clackamas County goals
    - 1-hour virtual focus group session with interested business owners to support survey development. Attendance from at least one Clackamas County representative strongly recommended.
    - Final survey design modifications and survey construction in Qualtrics; review by Clackamas County representative
    - Survey will be limited to approximately 10 minutes in length with a small number of open-ended response questions to encourage a high response rate
  - Distribution:
    - The survey will be distributed via Clackamas County and city email lists, websites, and via a paper flyer with QR code available at physical locations where businesses interface with the County. The SOU MRI will provide the paper flyer and copy for the email.
    - A minimum of 100 responses is recommended for reliability of results. The project timeline may be extended if additional time is required to receive a sufficient number of responses. The SOU MRI will notify the County when a sufficient number of responses have been collected as well as request follow-up email blasts as needed.
  - Analysis: Data cleaning, followed by graphical, qualitative, and statistical analysis of survey responses.
- Final report
  - Formal report summarizing all study findings
  - Aggregated survey results (to protect privacy of individual respondents) and written survey feedback will be included in the final report
- Presentation of study findings to Clackamas County

**III. Estimated Timeline**

A	B	C	D
1 Week	6 Weeks	8 Weeks	3 Weeks

- A) Summary of Business Population Size and Characteristics
- B) Survey Design
- C) Survey Distribution and Response Collection
- D) Analysis and Report Writing

18 weeks total estimated time for the study, subject to receipt of required information and feedback from Clackamas County and any additional time to collect sufficient survey responses.

A report review meeting may be scheduled following receipt of report, at no additional cost to Clackamas County.

COVER SHEET

- New Agreement/Contract
- Amendment/Change/Extension to \_\_\_\_\_
- Other \_\_\_\_\_

Originating County Department: \_\_\_\_\_

Other party to contract/agreement: \_\_\_\_\_

Description:

After recording please return to: \_\_\_\_\_

- County Admin
- Procurement

If applicable, complete the following: \_\_\_\_\_

Board Agenda Date/Item Number: \_\_\_\_\_