



# AGENDA

**\*Revised**  
Added Consent item E. 1

**Thursday, June 9, 2016 - 10:00 AM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2016-44

**CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

**I. PRESENTATION** *(Following are items of interest to the citizens of the County)*

1. Presentation from PGE Regarding their Successful Fish Program on the Clackamas River (Annette Mattson and John Esler, Portland General Electric)

**II. CITIZEN COMMUNICATION** *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

**III. CONSENT AGENDA** *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

**A. Health, Housing & Human Services**

1. Approval of an Intergovernmental Sub-Recipient Agreement with the City of Lake Oswego/Lake Oswego Adult Community Center to Provide Social Services for Clackamas County Residents Age 60 and Over – *Social Services*

**B. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*

**C. Juvenile Department**

1. Approval of an Intergovernmental Agreement with the City of West Linn for Youth Offender Community Service Projects
2. Approval of an Intergovernmental Agreement with the City of Damascus for Youth Offender Community Service Projects

**D. Department of Emergency Management**

1. Approval to Apply for Federal Emergency Management Agency Flood Mitigation Assistance Grant to Acquire Flood-Damaged Residential Properties

**\*E. Finance Department**

1. Approval of a Professional Services Contract with Moss Adams LLP to Provide Annual Audit Services

**IV. WATER ENVIRONMENT SERVICES**

*(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)*

1. Approval of an Amendment No. 1 to the Intergovernmental Agreement between Clackamas County Service District No. 1 and Clackamas County Facilities Management for Maintenance Service
2. Approval of an Amendment No. 1 to the Intergovernmental Agreement between Tri-City Service District and Clackamas County Facilities Management for Maintenance Service
3. Approval of Amendment No. 1 to the Agreement between Clackamas County Service District No. 1 and MWH Americans, Inc. for Professional Engineering Services for the Tri-City Water Pollution Control Plant Blower Upgrades Project
4. Approval of Amendment No. 1 to the Agreement between Clackamas County Tri-City Service District and MWH Americas, Inc. for Professional Engineering Services for the Tri-City Water Pollution Control Plant Blower Upgrades Project
5. Approval of a Construction Contract between the Tri-City Service District and Boede Construction, Inc. for the Willamette Interceptor Manhole Rehab Project - *Procurement*

**V. COUNTY ADMINISTRATOR UPDATE**

**VI. COMMISSIONERS COMMUNICATION**

**NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.**

[www.clackamas.us/bcc/business.html](http://www.clackamas.us/bcc/business.html)

June 9, 2016

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Subrecipient Agreement with City of Lake Oswego/Lake Oswego Adult Community Center to Provide Social Services for Clackamas County Residents age 60 and over

<b>Purpose/Outcomes</b>	Subrecipient Agreement with the City of Lake Oswego/Lake Oswego Adult Community Center to provide Older American Act (OAA) funded services for persons in the City of Lake Oswego service area.
<b>Dollar Amount and Fiscal Impact</b>	The maximum agreement is \$60,733. The contract is funded through the Social Services Division agreement with the Oregon Dept of Human Services, State Unit on Aging.
<b>Funding Source</b>	Federal Older American Act - no County General Funds are involved.
<b>Duration</b>	Effective July 1, 2016 and terminates on June 30, 2017
<b>Previous Board Action</b>	
<b>Strategic Plan Alignment</b>	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	7665

**BACKGROUND:**

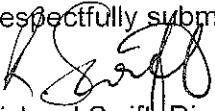
The Social Services Division of the Health, Housing and Human Services Department request the approval of the Subrecipient agreement with the City of Lake Oswego/Lake Oswego Adult Community Center to provide Older American Act (OAA) funded services for persons living in Lake Oswego. The services provided include lunch served at the Center, home delivered meals, health promotion activities, transportation, and information and referral activities. These services link residents with resources to meet their individual needs. This helps them to remain independent and involved in their community.

In the spring of 2015 Social Services advertised for a contractor to provide Older American Act services for older persons in Clackamas County during Fiscal Year 2016-17, with an option for renewal for four additional years. No agency other than City of Lake Oswego/Lake Oswego Adult Community Center showed an interest in providing these services in the Lake Oswego area, so an intergovernmental agreement with the City of Lake Oswego/Lake Oswego Adult Community Center was negotiated. This is the first agreement under this RFP. Approved by County Counsel April 4 2016.

**RECOMMENDATION:**

Staff recommends the Board approval of this agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", written over the text "Respectfully submitted,".

Richard Swift, Director

**CLACKAMAS COUNTY, OREGON  
SUBRECIPIENT GRANT AGREEMENT 17-001**

This Agreement is between Clackamas County, Oregon, acting by and through its  
Health Housing & Human Services Department,  
Social Services Division – Area Agency on Aging (COUNTY), and  
City of Lake Oswego – Lake Oswego Adult Community Center (SUBRECIPIENT).

**Clackamas County Data**

Grant Accountant: Sue Aronson	Project Manager: Stefanie Reid-Danielson
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 503-742-5421 <a href="mailto:suea@co.clackamas.or.us">suea@co.clackamas.or.us</a>	Clackamas County – Social Services Division 2051 Kaen Road Oregon City, OR 97045 503-655-8330 <a href="mailto:stefanierei@co.clackamas.or.us">stefanierei@co.clackamas.or.us</a>

**Subrecipient Data**

Finance/Fiscal Representative: <i>Center Director</i>	Program Representative: <i>Center Director</i>
Ann Adrian P.O. Box 369; 505 G Ave. Lake Oswego, OR 97034 503-635-0215 <a href="mailto:aadrian@ci.oswego.or.us">aadrian@ci.oswego.or.us</a>	Ann Adrian P.O. Box 369; 505 G Ave. Lake Oswego, OR 97034 503-635-0215 <a href="mailto:aadrian@ci.oswego.or.us">aadrian@ci.oswego.or.us</a>
DUNS: 06-524-8932	FEIN: 93-6002231

**RECITALS**

1. Project description: This project is a cooperative effort by parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older.
2. This Grant Agreement of Federal financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

## AGREEMENT

1. **Term and Effective Date.** This Agreement shall be effective as of the **July 1, 2016** and shall expire on **June 30, 2017**, unless sooner terminated or extended pursuant to the terms hereof.
2. **Program.** The Program is described in Attached Exhibit 1 - Purpose, Service Descriptions and Service Objectives. SUBRECIPIENT agrees to perform the services in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Older Americans Act and 45 CFR 1321 (collectively "OAA"), that is the source of the grant funding, in addition to compliance with requirements of State of Oregon, Department of Human Services, State Unit on Aging Older Americans Act Program Standards.
4. **Grant Funds.** The maximum, not to exceed, grant amount that the COUNTY will pay is **\$60,733**. This is a cost reimbursement grant and disbursements will be made in accordance with the requirements contained in Exhibit 5 – Reporting Requirements and Exhibit 6 – Budget and Units of Services. Failure to comply with the terms of this Agreement may result in withholding of payment. (The split between funding sources is outlined in Exhibit 6 – Budget and Units of Services.)
  - a. **Grant Funds.** The COUNTY's funding of \$44,883 in grant funds for this Agreement is the Older Americans Act (CFDA: 93.043, 93.044, 93.052, 93.053) issued to the COUNTY by the State of Oregon, Department of Human Services, State Unit on Aging.
  - b. **Other Funds.** The COUNTY's funding of \$11,650 for transportation services outlined in this agreement are from Elderly and Disabled Transportation funds issued to the COUNTY by Ride Connection, Inc. and TriMet. The COUNTY's funding of \$4,200 for Physical Activity/Falls Prevention outlined in this agreement are from State of Oregon, Department of Human Services, State Unit on Aging; Special Program Allocation.
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 the 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 or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.

6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days' notice. This notice may be transmitted in person, by certified mail, facsimile, or by Email.
7. **Funds Available and Authorized.** The COUNTY certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the current fiscal year budget. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **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 this agreement.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and 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. In addition, the SUBRECIPIENT agrees to comply with the standards set forth in the "OAA".
  - b. **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not the SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
  - c. **Cost Principles.** The 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.
  - d. **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from services provided during the funding period.
  - e. **Match.** SUBRECIPIENT agrees to provide matching funds for the services provided as outlined in Exhibit 6 – Budget and Units of Services.
  - f. **Budget.** SUBRECIPIENT's use of funds may not exceed the amounts specified in the Exhibit 6 – Budget and Units of Services. The SUBRECIPIENT may not transfer grant funds between services without the prior written approval of the COUNTY. At no

time may budget modifications change the scope of the original grant application or agreement.

- g. Research and Development.** COUNTY certifies that this award is not for research and development purposes.
- h. Payment.** The SUBRECIPIENT must submit a final request for payment no later than ten (10) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit 5 – Reporting Requirements.
- i. Performance Reporting.** The SUBRECIPIENT must submit Performance Reports as specified in Exhibit 5 – Reporting Requirements for each period (monthly, quarterly, and final) during the term of this Agreement.
- j. Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of this agreement, SUBRECIPIENT will submit completed Reimbursement Request on a monthly basis as specified in Exhibit 5 – Reporting Requirements.
- k. 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 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibit 5 – Reporting Requirements), performance, and other reports as required by the terms and conditions of the Federal award and/or the COUNTY, no later than 10 calendar days after the end date of this agreement.
- l. Universal Identifier and Contract Status.** The SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number (DUNS) as required for receipt of funding. In addition, the SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- m. Suspension and Debarment.** The SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub-awards 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 E.O. 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.

- n. **Lobbying.** The SUBRECIPIENT certifies (Exhibit 7: Lobbying and Litigation) 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, which prohibits the use of Federal grant funds for litigation against the United States. SUBRECIPIENT certifies that it does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- o. **Audit.** The 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 the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <http://harvester.census.gov/sac/>. At the time of submission to the FAC, the SUBRECIPIENT will also submit a copy of the audit to the COUNTY. 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 the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- p. **Monitoring.** The 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 200.330-331. The COUNTY, the Federal government, and their duly authorized representatives shall have access to such 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 the 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.

- q. **Record Retention.** The 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, 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 200.333-337.
- r. **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for OAA Funding, 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 grantee, under those grant documents.
- s. **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met or to terminate this relationship including the original contract and all associated amendments.

#### 10. Compliance with Applicable Laws

- a. **Federal Terms.** The SUBRECIPIENT shall comply with the federal terms and conditions as outlined in Exhibit 3 - Required Federal Terms and Conditions, and incorporated herein.
- b. **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 the agreement.
- c. **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 for the design or other Services required under the Agreement. The County shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. The SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by the County shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- d. **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by the 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 (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.

- e. **Criminal Records and Abuse Checks.** SUBRECIPIENT agrees to meet requirements set forth in OAR 407-007-0200 through 407-007-0370 and ORS 181.534 through 181.537 and ORS 443.004. Subject individuals are employees of the SUBRECIPIENT; volunteers of the SUBRECIPIENT; employees and volunteers of SUBRECIPIENT's subcontractors and direct care providers of clients for which SUBRECIPIENT provides service authorization.

County will assist SUBRECIPIENT to meet this requirement by processing criminal record checks utilizing the DHS Criminal Records Information Management System (CRIMS) for SUBRECIPIENT's subject individuals as requested.

- f. **Mandatory Reporting of Elder Abuse.** SUBRECIPIENT shall ensure compliance with the mandatory reporting requirements of ORS 124.050 through 124.095 and OAR Chapter 411, Division 20 for employees and volunteers of the SUBRECIPIENT's clients to whom the SUBRECIPIENT provides services.

- g. **Americans with Disabilities Act.** SUBRECIPIENT will ensure facilities used for the provision of OAA funded services meet the requirements as stated in Title II of the Americans with Disabilities Act of 1990, as amended ("ADA"), Section 504 of the Rehabilitation Act and DHS Policy #010-005.

- h. **Confidentiality of Client Information.**

- i. All information as to personal facts and circumstances obtained by the SUBRECIPIENT on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, the responsible parent of a minor child, or his or her guardian except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- ii. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this agreement. Confidentiality policies shall be applied to all requests from outside sources.
- iii. DHS, County and SUBRECIPIENT will share information as necessary to effectively serve DHS Clients.

- 11. **SUBRECIPIENT Standard Terms and Conditions.** The SUBRECIPIENT shall comply with the terms and conditions as incorporated hereto in Exhibit 4 – Subrecipient Standards Terms and Conditions.

## 12. 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 the SUBRECIPIENT. Justification for sole-source procurement should include a description of the project 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. The 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 the SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the 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 proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d. The SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

## 13. General Agreement Provisions.

- a. **Non-appropriation Clause.** If payment for activities and programs under this agreement extends into the COUNTY's next fiscal year, the COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the agreement by the Board of County Commissioners.
- b. **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its commissioners, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its

employees, agents or those under SUBRECIPIENT's control. 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.

- i. **Ride Connection/Tri-Met funds:** To the fullest extent permitted by law, SUBRECIPIENT agrees to fully indemnify, hold harmless and defend Ride Connection, its directors, officers, employees and agents, TriMet, its officers employees and agents, and the State of Oregon, its officers, employees and agents, from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense thereof including reasonable attorney's fees resulting from or arising out of the activities of SUBRECIPIENT, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement.
  - ii. **Non-Medical rides for Medicaid clients funds:** SUBRECIPIENT shall defend, save, hold harmless, and indemnify the State of Oregon, Human Services Division and their officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of SUBRECIPIENT or its officers, employees, subcontractors, or agents, in performance of this contract
- c. **Insurance.** During the term of this agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
- i. **Commercial General Liability.** 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, commissioners, 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.
    - I. **Required for State of Oregon for non-medical rides for Medicaid clients** – Commercial General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided for this funding source.
    - II. **Required for Ride Connection/Tri-Met Transportation Funding** – Broad form comprehensive general liability coverage, \$1,000,000 combined single limit bodily injury and property damage

- ii. **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, 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.
  - i. Required for State of Oregon for non-medical rides for Medicaid clients – Commercial General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided for this funding source.
  - ii. Required for Ride Connection/Tri-Met Transportation Funding – Broad form comprehensive general liability coverage, \$1,000,000 combined single limit bodily injury and property damage
  
- iii. **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the 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 the COUNTY, its officers, commissioners 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.
  
- iv. **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability, shall include "Clackamas County, its agents, commissioners, officers, and employees" as an additional insured.
  - (a) Required by State of Oregon for non-medical rides for Medicaid clients – Insurance must provide that the State of Oregon, Department of Human Services, and its divisions, officers and employees are Additional Insured but only with respect to the transportation services funded under Agreement between the State of Oregon and Clackamas County Social Services.
  - (b) Required for Ride Connection/Tri-Met Transportation Funding – the insurance shall:
    - (i) include Ride Connection and Tri-Met and its directors, officers, representatives, agents, and employees as additional insured with respect to work or operations connected with providing transportation;
    - (ii) give Ride Connection and Tri-Met not less than thirty (30) days notice prior to termination or cancellation of coverage; and

- (iii) include an endorsement providing that the insurance is primary insurance and that no insurance that may be provided by Ride Connection or Tri-Met may be called in to contribute to payment for a loss.
- v. **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 the 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.
  - vi. **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.
  - vii. **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. The COUNTY and its 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. The certificate will specify that all insurance-related provisions within the agreement have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
  - viii. **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.
  - ix. **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.
- d. **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of the COUNTY.
- e. **Independent Status.** SUBRECIPIENT is independent of the COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of the COUNTY excepting as set forth

herein. SUBRECIPIENT shall not seek or have the power to bind the COUNTY in any transaction or activity.

- f. **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.
- g. **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between the COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h. **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.
- i. **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.
- j. **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.
- k. **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l. **Integration.** This agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements. When a requirement is listed both in the main boilerplate of the agreement and in an Exhibit, the Exhibit shall take precedence.

(Signature Page Attached)



SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

This agreement consists of thirteen (13) sections plus the following exhibits which by this reference are incorporated herein.

- Exhibit 1 Scope of Work and Service Objectives and Elements of Completion
- Exhibit 2 Transportation Provider Standards
- Exhibit 3 Required Federal Terms and Conditions
- Exhibit 4 Subrecipient Standard Terms and Conditions
- Exhibit 5 Reporting Requirements
- Exhibit 6 Budget and Units of Service
- Exhibit 7 Congressional Lobbying Certificate
- Exhibit 8 Subrecipient Information

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

City of Lake Oswego –  
Lake Oswego Adult Community Center

CLACKAMAS COUNTY

By: Kent Studebaker  
Kent Studebaker, Mayor

Commissioner: John Ludlow, Chair  
Commissioner: Jim Bernard  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Tootie Smith

May 19, 2016  
Date

Signing on Behalf of the Board:

\_\_\_\_\_  
Richard Swift, Director  
Health, Housing and Human Services Department

\_\_\_\_\_  
Date

Approved to Form

By: Amanda Keller via email  
Clackamas County Counsel

April 4, 2016  
Date

## Exhibit 1

### PURPOSE, SERVICE DESCRIPTION AND SERVICE OBJECTIVES

#### 1. PURPOSE OF THE SERVICES

The purpose of this contract is the cooperation of both parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older. The goal in providing these services is to assist older residents in meeting their individual needs by linking them with County resources.

#### 2. DESCRIPTION OF SERVICES

- a. **CASE MANAGEMENT:** Is an in-depth interview with a client to provide access to an array of service options to assure appropriate levels of service and to maximize coordination in the service delivery system. Case management must include four general components: access, assessment, service implementation, and monitoring:
  - i. Access & Assessments:
    - (1) Informing clients of available services and, where appropriate, developing a goal-oriented service plan.
    - (2) Utilize an approved County-wide standardized assessment/intake form.
    - (3) Assessment is re-done with a change in client life situation/condition - every six to twelve months.
    - (4) May be billed upon submission of assessment/intake form.
  - ii. Service Implementation & Monitoring:
    - (1) Provide early identification of current or potential problem areas.
    - (2) Assess the need for changes/improvements in service.
    - (3) Identify any gaps/unmet needs.
    - (4) Review intervention results to determine if what was done achieved the desired result.
    - (5) Determine if services should be discontinued.
    - (6) Case monitoring services are available to frail but mobile elderly as well as homebound individuals.
- b. **REASSURANCE:** Regular friendly telephone calls and/or visits to physically, geographically or socially isolated registered clients that are receiving services to determine if they are safe and well, if they require assistance, and to provide reassurance. A unit is one contact

- c. **INFORMATION & ASSISTANCE:** Consists of request for assistance locating resources to meet a specific need, or assistance prioritizing and locating resources to meet multiple needs. Inquiries require:
  - i. Informal assessment of the client's needs.
  - ii. Evaluation of appropriate resources.
  - iii. Assistance linking the client to the resources.
  - iv. Completion of an intake form to document background information on the client, the client's needs and what actions or referrals were made.
  - v. Follow up with the client or agency to see if the needs were met.
  - vi. Tallying the category of need for each inquiry.
  - vii. Documenting any unmet needs including recording the request, resources tried and the reason unable to help.
  
- d. **TRANSPORTATION:** Is the service that provides one-way rides for older persons and younger persons with disabilities. The goal is to ensure that transportation needs are met for those who are unable to meet their transportation needs independently. OAA funded rides are scheduled for persons who are age 60 and older for trips to medical appointments, clinics, personal business and to senior center activities. Ride Connection funded rides are scheduled for individuals age 60 and older and for persons with disabilities age 18 and over for medical appointments, clinics, personal business, shopping, nutrition and recreation activities.
  - i. Lake Oswego Adult Community Center Transportation Consortium Goals:
    - (1) Increase replacement reserve fund with separate accounting.
    - (2) Assure all drivers meet Ride Connection training and eligibility requirements as defined in the Operations Manual for Transportation Coordinators.
    - (3) Continue regular publicity/marketing efforts regarding transportation program
    - (4) Continue to explore ways to increase ridership, including contact with long term care facilities in the area.
    - (5) Attend all scheduled Transportation Consortium meetings.
  - ii. Guidelines for Non-Medical Transportation for Waivered Medicaid Clients
    - (1) This funding source is available for Medicaid clients who are receiving "waivered" services. Medicaid clients with a case manager who reside in all types of living situations except nursing facilities are waivered Medicaid clients. All rides must be authorized in writing on a *NON MEDICAL RIDE REFERRAL FORM FOR WAIVERED MEDICAID CLIENT* form by an Aging and Disability Services case manager before reimbursement may be requested for them. SUBRECIPIENT must keep the client ride authorizations on file – faxed forms are adequate. Case Managers will authorize rides yearly, at a minimum and will note the need for non-medical transportation in the client's signed case plan. COUNTY will coordinate completion and distribution of forms for SUBRECIPIENT and case managers through the Transportation Reaching People (TRP) program.

(2) Services shall be billed by SUBRECIPIENT according to the following rate scale:

One person, one-way ride: \$14.00 per ride

(3) Clients receiving the rides will not be asked or expected to contribute to the cost of the ride.

(4) Trips will be tracked daily by client and type of ride. This information will be sent monthly to COUNTY, and be available for State and Federal representatives for audit purposes.

iii. SUBRECIPIENT will be responsible for:

(1) recruitment of volunteer and/or paid drivers who will qualify for insurance coverage or who are willing to provide proof of coverage as drivers, and maintaining an adequate number of qualified volunteer and/or paid drivers to provide services.

(2) orientation of drivers to the transportation program and informing them of other specialized training opportunities required to maintain safety of operations.

(3) submission of criminal record check requests on all potential drivers and receiving satisfactory reports back prior to scheduling them to transport any client.

(4) drug and alcohol testing on all potential paid drivers prior to hiring them is recommended for all drivers of Center-owned mini vans and buses, including volunteers.

e. **FOOD SERVICE**- Is the production of meals for the congregate and home delivered meal recipients of the Canby Adult Center. Each meal must contain at least one-third of the Recommended Dietary Allowance (RDA) as established by the Food and Nutrition Board, National Research Council - National Academy of Science. A unit is one meal prepared and served, delivered, or a HDM "late-cancel."

f. **MEAL SITE MANAGEMENT** - Meal Site Management includes such tasks as: supervising final on-site preparation and serving/delivery of meals to eligible congregate and home-delivered participants; recruiting, training, scheduling and monitoring program volunteers; determining eligibility of participants; collecting and accounting for participant donations; completing and submitting required budget and program reports, providing events and activities for meal site participants; meeting with meal site Advisory Committee; and publicizing meal site in the Estacada community to enhance visibility and encourage participation.

g. **PHYSICAL ACTIVITY AND FALLS PREVENTION** – The provision of physical fitness programs that include a focus on strength, balance, and flexibility exercise to promote physical activity and/or prevent falls, which have been demonstrated through rigorous evaluation to be evidence-based and effective with older populations.

- h. **PREVENTIVE SCREENING, COUNSELING, AND REFERRALS** - The provision of educational programming about the availability, benefits and appropriate use of Medicare preventive health services and/or other preventive health programs.
- i. **CAREGIVER RESPITE** – Services that offer temporary, substitute supports or living arrangements for care recipients in order to provide a brief period of relief or rest for unpaid caregivers served under the Family Caregiver Support Program. To be eligible for caregiver respite, the care recipient must either: (1) be unable to perform at least two activities of daily living (ADL’s) without substantial human assistance, including verbal reminding, physical cueing OR (2) due to a cognitive or other mental impairment, require substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or another individual.

### 3. SERVICE OBJECTIVES

#### a. Case Management

**Objective:** To provide contracted units of service throughout the contract period for County residents age 60 and older who are identified as needing assistance from County agencies.

Elements:

- i. SUBRECIPIENT Client Services Coordinator (CSC) assesses clients within two weeks following their request for services or referral from another source (outreach effort, gatekeeper, neighbor, family member, etc.).
- ii. SUBRECIPIENT CSC completes assessment on a County approved assessment/intake form.
- iii. SUBRECIPIENT CSC writes case plan, as appropriate, for the client from the information gathered on the assessment form.
- iv. SUBRECIPIENT CSC re-assesses clients’ service needs/eligibility every six months or when their condition or life situation dramatically changes
- v. SUBRECIPIENT CSC reviews client case plans quarterly, at a minimum, and provides follow up contact by phone or home visits.
- vi. SUBRECIPIENT CSC (upon request from client, other agency or family member) provides additional follow up to coordinate services.
- vii. SUBRECIPIENT CSC consults with SPD Case Manager (if client has one) to maximize coordination of services. Consultations will be annotated on Case Monitoring forms within 2 work days.
- viii. SUBRECIPIENT CSC documents all reviews and additional follow ups on case monitoring contact forms which are kept in client record file.
- ix. SUBRECIPIENT CSC keeps all client information in a secured area, accessible to only authorized personnel.

**b. Reassurance**

**Objective:** To provide contracted units of service throughout the contract period for County residents age 60 and older who are identified as needing assistance from County agencies.

Elements:

- i. SUBRECIPIENT Client Services Coordinator (CSC) assesses clients provides follow up contact by phone to ensure that services outlined under case plan are meeting clients need.
- ii. SUBRECIPIENT CSC documents all reviews and additional follow ups on case monitoring contact forms which are kept in client record file.
- iii. SUBRECIPIENT CSC keeps all client information in a secured area, accessible to only authorized personnel.

**c. Information and Assistance - COUNTY Responsibilities**

**Objective:** To provide participating SUBRECIPIENT with training, technical assistance, resource development, networking and information sharing.

Elements:

- i. County will provide orientation on County's I&R program to SUBRECIPIENT I&A staff.
- ii. County will notify SUBRECIPIENT's I & A Specialist of "Networking" I & R Breakfast Meetings and schedule speakers to meet interests expressed by SUBRECIPIENT.

**d. Information and Assistance - SUBRECIPIENT Responsibilities**

**Objective 1:** Have a system in place which enables SUBRECIPIENT to provide referral services to link people with needs to the appropriate resources.

Elements:

- i. SUBRECIPIENT will designate a single individual (paid or volunteer) who is at least 0.5 FTE with the SUBRECIPIENT as an I & A Specialist.
- ii. SUBRECIPIENT will notify COUNTY I & A Coordinator and Contract Specialist within 30 days of any change in SUBRECIPIENT's designated I & A Specialist, and will schedule an on-site training with the County I & A Coordinator for the new designee within 60 days of appointment.
- iii. SUBRECIPIENT's I & A Specialist will attend a minimum of 6 monthly County "Networking" I&R breakfasts meeting each year and attend Scheduled CSC meetings.
- iv. SUBRECIPIENT's I & A Specialist will update center information for the County's Community Resources Guide, initiate notification to County's I&R program regarding any changes to SUBRECIPIENT programs, and notify County's I&R program of any significant changes in local community resources.
- v. SUBRECIPIENT I & A Specialist will compile and submit quarterly data reports, including a description of unmet needs, to the Contract Specialist for forwarding to the County I & A Coordinator by the 10th day following each quarter.

**Objective 2:** To provide contracted units of service throughout the contract period for County residents age 60 and older who need help identifying resources to meet their individual needs.

Elements:

- i. SUBRECIPIENT Director or CSC annotates name, Medicaid status, address, phone number, date of request, and nature of request/need.
- ii. SUBRECIPIENT makes referral and follows up with client within a 2 day work period.
- iii. SUBRECIPIENT annotates follow up taken and number of referrals needed on Referral Log.
- iv. SUBRECIPIENT Director keeps completed Referral Logs in a secured area, accessible to only authorized personnel.

**e. Transportation**

**Objective:** To provide contracted units of service throughout the contract period for County residents age 60 and older, and to younger persons with disabilities who are unable to meet their transportation needs.

Elements:

- i. SUBRECIPIENT designates one person to be coordinator for the transportation program. This person will be responsible for:
  - (1) Recruiting drivers.
  - (2) Submitting criminal checks
  - (3) Ensuring all drivers meet Ride Connection training requirements
  - (4) Scheduling road tests for all drivers.
  - (5) Conducting periodic/seasonal driver safety training.
  - (6) Providing a copy of written procedures for transportation services to each driver.
  - (7) Scheduling vehicle maintenance.
  - (8) Maintain daily Pre- and Post- trip Reports
- ii. SUBRECIPIENT provides transportation as scheduled each day.
- iii. SUBRECIPIENT maintains system to document each trip of each day.
- iv. SUBRECIPIENT schedules private auto transportation for medical appointments within the Lake Oswego area.
- v. SUBRECIPIENT coordinates with County Transportation Reaching People program to schedule private auto rides outside of the Lake Oswego area.

**f. Food Service**

**Objective 1:** To produce and deliver contracted number of meals to specified County sites throughout the contract period.

Elements:

- i. SUBRECIPIENT submits each month's menu to County's contract Registered Dietitian (RD) by the first day of the preceding month. Menus must meet the following standards:
  - (1) Each meal must contain at least 1/3 of the Dietary Reference Intakes (DRI) as established by the Food and Nutrition Board, National Research Council - National Academy of Science, for Male 70+ or Female 70+, whichever is greater. (Milk is part of Site Management.) Nutrition providers are strongly encouraged to use computerized nutrient analysis to assure meals are in compliance with nutritional requirements.
  - (2) The cycle for the cycle menu system must be at least nine weeks long.
  - (3) A Registered Dietitian (RD) must review and sign the menus to certify that they meet the one-third RDI. They should also incorporate the whole grains, fruits, vegetables and low-fat dairy products that meet the current Dietary Guidelines for Americans; specifically persons 70 years of age and older.
  - (4) Menus should reflect the tastes and appetites of the current elderly population.
  - (5) Menus should incorporate a variety of foods and preparation methods with contrasts in color, texture, sizes, shapes, and flavors. Food items should not be repeated two days in a row, or on same day of consecutive weeks. Menus should reflect seasonal availability of fresh fruits and vegetables.
  - (6) All items must be specifically identified in the menu. Listing such things as "Fruit in Season", "Vegetable" or "Cookie" does not provide enough information. Each menu item should be easily identified by its name.
  - (7) A special meal should be planned for major holidays, such as Thanksgiving and Christmas. These meal dates will be coordinated with meal site staff. A special food and/or meal planned for lesser holidays, such as Valentine's Day and Mother's Day would also be encouraged.
  - (8) Menus should be served as written and approved. If changes are necessary, they must be of comparable nutrient value. Each change is to be recorded on the working and/or file copy of the menu and initialed and dated by a supervisor. Updated menu must be posted for meal participant's information.

**Objective 2:** To provide Special Diet Meals to meet participants' needs. Menus shall be planned and meals available for the modified diets listed below:

Elements:

- i. Uncalculated Diabetic. Eliminates items high in sugar by substituting products or recipes that use artificial sweeteners. The carbohydrate content of the meal should represent approximately 50% of the total calories.



- ii. Moderate Sodium Restricted. Eliminates menu items or foods that are naturally high in sodium (not to exceed 1.2 grams per meal).
- iii. Low Cholesterol. Eliminates menu items or foods that are naturally high in cholesterol and/or fat (not to exceed 100 mg per meal).

**Objective 3:** To use standardized recipes and portion control.

Elements:

- i. Recipes used by SUBRECIPIENT should be adapted to the requirements of a Title III Senior Nutrition meal.
- ii. Recipes should be standardized for the kitchen, equipment, ingredients, and skills of personnel using them.
- iii. Recipes should be adjusted for yield based on portion size and the number of people being served that particular meal.
- iv. Food service employees must understand and be able to use standardized recipes and produce standard portions.

**Objective 4:** To procure food from sources that comply with all federal, state and local laws that relate to food production, manufacturing, packaging and labeling. Donated food that meets the above standards may be used.

**Objective 5:** To comply with all federal, state and local laws and regulations pertaining to sanitation requirements and practices in food production, storage, transportation, and service.

Elements:

- i. A sanitation inspection by a Registered Sanitarian from the State Health Division or local health department is required every six months.
- ii. A copy of each inspection report is to be mailed to County within five working days of receipt, along with a written plan (including timelines) of any required corrective action.
- iii. Contractor must establish and use sanitary procedures for packaging and transporting food from kitchen for home delivered meals. This will include procedures for maintaining proper temperatures and cleaning and sanitizing all transport equipment.
- iv. Food temperatures shall be taken and recorded as the food is panned to leave the production area for transport. Records of these temperature checks shall be maintained in the Contractor's files.
- v. Oregon Nutrition Program Standards and Oregon Administrative Rules, Chapter 333, Food Sanitation Rules must be followed.

**Objective 6:** To employ qualified, trained personnel to assure satisfactory performance.

Elements:

- i. SUBRECIPIENT must have at least one employee in the kitchen who has completed a community college-level food service sanitation course.

- ii. SUBRECIPIENT must have a new employee orientation.
- iii. SUBRECIPIENT must have a training plan that includes training for employees and supervisory staff.

**g. MEAL SITE MANAGEMENT**

**Objective 1:** To supervise preparation of meals, serving meals to congregate participants, and delivery of meals to home delivered clients.

Elements:

- i. Procurement of milk is part of site management.
- ii. Packaging of home delivered meals is part of site management.

**Objective 2:** To organize and supervise the recruiting, training, scheduling and monitoring of program volunteers.

**Objective 3:** To determine eligibility of participants and target services to individuals who are in the greatest economic or social need, with particular attention to low income minority individuals.

Elements:

- i. Economic need is defined as income equal to, or less than, the poverty level as determined by the Department of Commerce.
- ii. Persons with social need are those persons who have at least two of the following characteristics:
  - (1) be 75 years or older
  - (2) live alone
  - (3) have a physical or mental impairment which prevents proper functioning within society
  - (4) be of a minority group
  - (5) have no significant other(s)

**Objective 4.:** To offer a range of events and activities to enhance daily living efforts of older people or to provide opportunity for their participation in community life.

Elements:

- i. SUBRECIPIENT plans educational presentations in areas such as nutrition, health, safety, utilization of community services and programs, and other topics of interest to participants.
- ii. SUBRECIPIENT provides opportunities to promote personal growth and self-image.
- iii. SUBRECIPIENT provides opportunities for a variety of types and levels of involvement.
  - (1) Small and large group activities
  - (2) Active and spectator participation
  - (3) Participation with the general community and other generations.

- iv. SUBRECIPIENT plans activities which are flexible and responsive to change in:
  - (1) Individual participant needs and interests.
  - (2) Characteristics of the service area's older population.
  - (3) Other programs in the relevant service area.

**Objective 5:** To inform the community about the meal site program.

Elements:

- i. SUBRECIPIENT publicizes programs in local newspapers, flyers, brochures, posters, fraternal organizational meetings, etc.
- ii. SUBRECIPIENT ensures Center is identified by an easily visible sign at its entrance.
- iii. SUBRECIPIENT posts monthly menus in an obvious position in the Center and delivers them to home-bound clients each month.
- iv. SUBRECIPIENT mails or delivers calendar of upcoming Center activities to current and potential participants.

**Objective 6:** To plan for provision of services in cooperation with site Advisory Committee and Area Agency on Aging (AAA) Adult Center Liaison Committee.

Elements:

- i. SUBRECIPIENT identifies needs and concerns specific to the Center and service area participants.
- ii. SUBRECIPIENT incorporates information from other service providers, community agencies, and governmental organizations in providing services.
- iii. SUBRECIPIENT conducts program participant satisfaction survey at least once per year.
- iv. SUBRECIPIENT food service manager meets quarterly with COUNTY nutrition consultant to go over status of meal program files, plans, goals, accountings, etc..

**Objective 7:** To collect, account for and report program income (participant donations).

Elements:

- i. SUBRECIPIENT provides each participant (congregate and home delivered) with an opportunity to voluntarily contribute to the cost of the service.
- ii. SUBRECIPIENT sets up container for donations at meal site which ensures and protects the privacy of the participants.
- iii. SUBRECIPIENT has system set up at site to collect full meal price from persons not eligible for services.
- iv. SUBRECIPIENT posts:
  - (1) full cost of the meal, and
  - (2) a notice describing the donation and payment policies.
- v. SUBRECIPIENT may post suggested donation information if it is clear that:
  - (1) every donation from an eligible participant is on a "pay what you can afford" basis, and

(2) no means test is used in the collection of contributions or provision of the meal.

#### **h. Physical Activity/Falls Prevention**

**Objective:** To provide contracted units of service throughout the contract period.

Elements:

- i. SUBRECIPIENT regularly schedules physical activity classes that meet the evidenced-based requirements and include a focus on strength, balance, and flexibility to promote physical activity and/or prevent falls.
- ii. SUBRECIPIENT registers participants for activities, obtaining a waiver to injury for each participant.
- iii. SUBRECIPIENT has physical condition of clients assessed before setting up plan for workouts with equipment.

#### **i. Preventive Screening, Counseling, and Referrals**

**Objective:** To provide contracted units of service throughout the contract period.

Elements:

- i. SUBRECIPIENT contacts qualified professionals/organizations to conduct educational programming about the availability, benefits and appropriate use of Medicare preventive health services.
- ii. SUBRECIPIENT contacts qualified professionals/organizations to conduct Health risk assessments and screenings or preventive health education programs at their facility or a facility convenient for their clientele.
- iii. SUBRECIPIENT schedules and advertises programs.
- iv. SUBRECIPIENT registers participants for activities, if necessary.
- v. SUBRECIPIENT has staff and/or trained volunteers available on site to coordinate the programs.
- vi. Where appropriate, SUBRECIPIENT keeps demographic records of participants for future planning purposes and so that participants may be notified of other preventive health education programs available to them.

#### **j. Caregiver Respite –**

**Objective:** To provide contracted units of service for family members of eligible under the Family Caregiver Support Program.

Elements:

- i. Agency respite program coordinator (RPC) interviews care providers to determine appropriateness of clients to program.
- ii. Agency RPC registers clients in program.
- iii. Agency staff, led by an RN, provide weekly activity program for respite clients.

**Exhibit 2**  
**Transportation Provider Standards**

**A. Vehicle Standards**

1. SUBRECIPIENT shall maintain its vehicles to provide comfortable and safe Rides to Clients. SUBRECIPIENT's vehicles shall meet the following requirements:
  - a. The interior of the vehicle shall be clean;
  - b. SUBRECIPIENT shall not smoke or permit smoking in the vehicle;
  - c. SUBRECIPIENT shall maintain appropriate safety equipment in the vehicle, including but not limited to:
    - i. First Aid Kit;
    - ii. Fire Extinguisher;
    - iii. Roadside reflective or warning devices;
    - iv. Flashlight;
    - v. Chains or other traction devices (when appropriate); and,
    - vi. Disposable gloves.
  - d. SUBRECIPIENT shall maintain the vehicle in good operating condition, by providing the following:
    - i. Seatbelts;
    - ii. Side and rear view mirrors;
    - iii. Horn; and,
    - iv. Working turn signals, headlights, taillights, and windshield wipers.
2. SUBRECIPIENT shall maintain a preventative maintenance schedule, which incorporates, at a minimum, all maintenance recommended by the vehicle manufacturer. SUBRECIPIENT shall comply with appropriate local, state, and federal transportation safety standards regarding passenger safety and comfort. SUBRECIPIENT shall provide all equipment necessary to transport Clients using wheelchairs.

**B. Drivers**

1. SUBRECIPIENT shall inform drivers of their job duties and responsibilities and provide training related to their job duties. SUBRECIPIENT shall also:
  - a. Brief drivers about the Non-Medical Transportation Services, reporting forms, vehicle operation, and the geographic area in which drivers will be providing service;
  - b. Ensure that drivers are capable of safely operating vehicles;
  - c. Require drivers to complete the National Safety Council Defensive Driving course, or an equivalent course, within six months of date of hire;
  - d. Require drivers to complete Red Cross approved First Aid, Cardiopulmonary Resuscitation and blood spill procedures within six months of date of hire prior to providing Medicaid Non-medical transportation services to Clients;
  - e. Require drivers to complete passenger assistance training, as required by the Americans with Disabilities Act; and,
  - f. Establish procedures for drivers to deal with situations in which emergency care is needed for Clients that they have been assigned to transport.

2. SUBRECIPIENT's selection of its drivers shall include:
  - a. Verification that the driver has an appropriate and valid, unrestricted State of Oregon driver's license as defined in ORS Chapter 807 and OAR Chapter 735, Division 062; and,
3. Verification that the driver has not been convicted of any crimes against people or any drug or alcohol related offenses. If a Provider desires an exception to this requirement, such exception shall be made only with the approval of COUNTY and shall be dependent upon when the crime occurred, nature of the offense, and other circumstances to assure Clients is not placed at risk of harm from the driver.

*THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK*

## EXHIBIT 3

### Required Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, SUBRECIPIENT shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to SUBRECIPIENT, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

1. **Miscellaneous Federal Provisions.** SUBRECIPIENT shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then SUBRECIPIENT shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
3. **Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$150,000 then SUBRECIPIENT shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all subcontractors to include in all contracts with subcontractors

receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** SUBRECIPIENT shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the SUBRECIPIENT certifies, to the best of the SUBRECIPIENT's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
  - b. 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 SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. The SUBRECIPIENT shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. 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.
  - e. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.
  - f. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of



legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

- g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to SUBRECIPIENT under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

**6. HIPAA Compliance.** To the extent that any Work or obligations of SUBRECIPIENT related to this Agreement are covered by the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), SUBRECIPIENT must comply. SUBRECIPIENT shall determine if SUBRECIPIENT will have access to, or create any protected health information in the performance of any Work or other obligations under this Agreement. To the extent that SUBRECIPIENT will have access to, or create any protected health information to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement, SUBRECIPIENT shall comply and cause all subcontractors to comply with the following:

- a. Privacy and Security of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between SUBRECIPIENT and COUNTY for purposes directly related to the provision of services to Clients which are funded in whole or in part under this Agreement. To the extent that SUBRECIPIENT is performing functions, activities, or services for, or on behalf of COUNTY, in the performance of any Work required by this Agreement, SUBRECIPIENT shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate OAR 407-014-0000 et. seq., or COUNTY HIPAA Privacy Policies and Notice of Privacy Practices. A copy of the most recent COUNTY HIPAA Privacy Policies and Notice of Privacy Practices may be obtained by contacting COUNTY.
- b. Data Transactions Systems. If SUBRECIPIENT intends to exchange electronic data transactions with COUNTY in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction,

SUBRECIPIENT shall execute an EDI Trading Partner Agreement and shall comply with EDI Rules.

- c. Consultation and Testing. If SUBRECIPIENT reasonably believes that the SUBRECIPIENT's or COUNTY' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, SUBRECIPIENT shall promptly consult the COUNTY Program Manager. SUBRECIPIENT or COUNTY may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the COUNTY testing schedule.
  - d. Business Associate Requirements. SUBRECIPIENT and all subcontractors shall comply with the same requirements for Business Associates set forth in OAR 125-055-0100 through OAR 125-055-0130 as a contractor of a Business Associate.
7. **Resource Conservation and Recovery.** SUBRECIPIENT shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
8. **Drug-Free Workplace.** SUBRECIPIENT shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) SUBRECIPIENT certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in SUBRECIPIENT's workplace or while providing services to DHS clients. SUBRECIPIENT's notice shall specify the actions that will be taken by SUBRECIPIENT against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, SUBRECIPIENT's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither SUBRECIPIENT, or any of SUBRECIPIENT's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For

purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; (x) Violation of any provision of this subsection may result in termination of this Agreement.

9. **Pro-Children Act.** SUBRECIPIENT shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. section 6081 et. seq.).
10. **Medicaid Services.** SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. SUBRECIPIENT shall acknowledge SUBRECIPIENT's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid Agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).
11. **Agency-based Voter Registration.** SUBRECIPIENT shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.

**12. Disclosure.**

- a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.
- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. SUBRECIPIENT shall make the disclosures required by this Section 14. To DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

- 13. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. The SUBRECIPIENT agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
  - I. The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
  - II. Any rights of copyright to which a grantee, subgrantee or a SUBRECIPIENT purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, sub-grant or agreement under a grant or sub-grant.

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## EXHIBIT 4

### Subrecipient Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives 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. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of Client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including SUBRECIPIENT and COUNTY, 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.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that SUBRECIPIENT is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
  - a. SUBRECIPIENT represents and warrants as follows:
    - i. **Organization and Authority.** SUBRECIPIENT is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. SUBRECIPIENT has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
    - ii. **Due Authorization.** The making and performance by SUBRECIPIENT of this Agreement (a) have been duly authorized by all necessary action by

SUBRECIPIENT and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of SUBRECIPIENT's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which SUBRECIPIENT is a party or by which SUBRECIPIENT may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by SUBRECIPIENT of this Agreement.

- iii.** Binding Obligation. This Agreement has been duly executed and delivered by SUBRECIPIENT and constitutes a legal, valid and binding obligation of SUBRECIPIENT, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - iv.** SUBRECIPIENT has the skill and knowledge possessed by well-informed members of its industry, trade or profession and SUBRECIPIENT will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in SUBRECIPIENT's industry, trade or profession;
  - v.** SUBRECIPIENT shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
  - vi.** SUBRECIPIENT prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b.** COUNTY represents and warrants as follows:
- i.** Organization and Authority. COUNTY has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
  - ii.** Due Authorization. The making and performance by COUNTY of this Agreement (a) have been duly authorized by all necessary action by COUNTY and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which COUNTY is a party or by which COUNTY may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by COUNTY of this Agreement, other than approval by the Department of Justice if required by law.
  - iii.** Binding Obligation. This Agreement has been duly executed and delivered by COUNTY and constitutes a legal, valid and binding obligation of COUNTY, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

- c. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**5. Ownership of Intellectual Property.**

- a. Definitions. As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
  - i. "SUBRECIPIENT Intellectual Property" means any intellectual property owned by SUBRECIPIENT and developed independently from the Work.
  - ii. "Third Party Intellectual Property" means any intellectual property owned by parties other than COUNTY or SUBRECIPIENT.
- b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, COUNTY will not own the right, title and interest in any intellectual property created or delivered by SUBRECIPIENT or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the SUBRECIPIENT owns, SUBRECIPIENT grants to COUNTY a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 8.a.(ii) on COUNTY' behalf, and (3) sublicense to third parties the rights set forth in Section 8.a.(ii).
- c. If state or federal law requires that COUNTY or SUBRECIPIENT grant to the United States a license to any intellectual property, or if state or federal law requires that the COUNTY or the United States own the intellectual property, then SUBRECIPIENT shall execute such further documents and instruments as COUNTY may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or COUNTY. To the extent that COUNTY becomes the owner of any intellectual property created or delivered by SUBRECIPIENT in connection with the Work, COUNTY will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to SUBRECIPIENT to use, copy, distribute, display, build upon and improve the intellectual property.
- d. SUBRECIPIENT shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as COUNTY may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

- 6. Records Maintenance; Access.** SUBRECIPIENT shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, SUBRECIPIENT shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document SUBRECIPIENT's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT whether in



paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." SUBRECIPIENT acknowledges and agrees that COUNTY, Ride Connection, Oregon Department of Transportation, the Public Transit Division, TriMet, State Unit on Aging and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts.

7. **Records Retention.** SUBRECIPIENT shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable 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. SUBRECIPIENT shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.
8. **Information Privacy/Security/Access.** If the Work performed under this Agreement requires SUBRECIPIENT or its subcontractor(s) to have access to or use of any COUNTY computer system or other COUNTY Information Asset for which COUNTY imposes security requirements, and COUNTY grants SUBRECIPIENT or its subcontractor(s) access to such COUNTY Information Assets or Network and Information Systems, SUBRECIPIENT shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
9. **Assignment of Agreement, Successors in Interest.**
  - a. SUBRECIPIENT shall not assign or transfer its interest in this Agreement without prior written approval of COUNTY. Any such assignment or transfer, if approved, is subject to such conditions and provisions as COUNTY may deem necessary. No approval by COUNTY of any assignment or transfer of interest shall be deemed to create any obligation of COUNTY in addition to those set forth in the Agreement.
  - b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
10. **No Third Party Beneficiaries.** COUNTY and SUBRECIPIENT are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that SUBRECIPIENT's performance under this Agreement is solely for the benefit of COUNTY to assist and enable COUNTY to accomplish its statutory mission. 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
11. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the

parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

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**Exhibit 5  
Reporting Requirements**

**1. INVOICES**

SUBRECIPIENT shall submit invoices in a format designated or approved by COUNTY. Invoices are due by the 10th of the subsequent month. The COUNTY shall make payment to SUBRECIPIENT within 21 days of receipt of each invoice submitted.

Invoices and reports on units of service provided shall bear the SUBRECIPIENT's name and address and be signed by an authorized representative of SUBRECIPIENT. The authorized signator of the invoice shall verify that the services purchased have been performed.

SUBRECIPIENT shall submit the following invoices and reports:

- a. Financial summary including match and program income.
- b. Vehicle Maintenance Invoices – Original approved vendor invoices for vehicle maintenance will be submitted monthly with transportation reports.
- c. Additional financial reports for the administration of this contract, as required by the COUNTY.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should the SUBRECIPIENT fail to submit reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, the COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until the SUBRECIPIENT submits required reports, performs required services, or establishes to the COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence of the SUBRECIPIENT.

SUBRECIPIENT shall return to the COUNTY all funds which were expended in violation of this contract.

**2. PROGRAM ACTIVITY REPORTS**

The SUBRECIPIENT shall submit monthly program activity reports presenting data comparing actual levels of service to the planned levels specified in Exhibit 4. These reports are due with the invoices. The format of these reports shall be designated or approved by the COUNTY, and contain the following:

- a. The SUBRECIPIENT shall submit nutrition reports monthly. These reports shall have:
  - i. the over and under age 60 meal program participation numbers broken out by: Congregate, HDM, Medicaid, volunteers, guests and staff.
  - ii. the amount of participant donations by Congregate and HDM .

- b. SUBRECIPIENT may bill Food Services for OAA funded HDM if they have been ordered by recipients then cancelled after 2:00 PM the day before delivery. SUBRECIPIENT may not bill for Meal Site Management for these meals.
- c. Service/unit summary with current reporting period figures
- d. Monthly NAPIS/Oregon Access information for client registration and program service data including client identifiers for all new clients. Programs service data must be equal to or greater than units of service billed for.
- e. Transportation Report forms A, B, and C
- f. List of Medicaid waived services clients who were provided non-medical transportation during the billing period, with number of rides provided for each client by ride type.
- g. SUBRECIPIENT shall submit copies of the SPD Medicaid Home Delivered Meals vouchers on current State approved form.

### **3. AUDIT/MONITORING**

SUBRECIPIENT shall permit authorized representatives of the COUNTY and other applicable audit agencies of the state or federal government, to review the records of the SUBRECIPIENT in order to satisfy program audit and evaluation purposes deemed necessary by the COUNTY and permitted under law.

SUBRECIPIENT agrees to participate with the COUNTY in any evaluation project or performance report, as designated by the COUNTY or applicable state or federal SUBRECIPIENT, and to make available all information required by any such evaluation process.

COUNTY agrees to notify SUBRECIPIENT in writing of intent to conduct onsite evaluation of reported performance management data and SUBRECIPIENT agrees to provide COUNTY access to its facility and staff, all related programs and fiscal documents, SUBRECIPIENT'S reports and on any other related documentation to substantiate performance management reporting of data.

### **4. ADMINISTRATION**

The COUNTY Project Manager shall be the ADS Contract Specialist or any other person as shall be designated in writing by the Director of the Social Services Division. The Project Manager is authorized to approve invoices, make site inspections, and be the COUNTY representative in matters related to this contract. The SUBRECIPIENT shall designate one or more representatives in writing who shall be authorized to sign the invoices and accompanying activity reports.

**Exhibit 6  
Budget and Units of Service**

**1. BUDGET**

The COUNTY's payment to the SUBRECIPIENT will be based on the provision of the units of service and according to the service elements and amounts specified in this Exhibit.

As required in OAA 315(b)(3) no means testing for services eligibility will be conducted and per OAA 315(b)(4)(A-D), all recipients of OAA services will be provided the opportunity to voluntarily contribute towards the cost of service. SUBRECIPIENT has appropriate safeguards in place to account for all contributions. Said contributions are hereby referred to as Program Income and shall be used by the SUBRECIPIENT for the sole purpose of expanding services if the program income is equal to or less than the budgeted amount.

SUBRECIPIENT may not transfer funds from one service category to another without written approval from the COUNTY.

SUBRECIPIENT agrees to provide matching funds in accordance with Section 309(b)(1) and 373 (g)(2) of the Older Americans Act for qualified expenditures with cash or in-kind resources of non-federal means as follows:

Match shall be figured at 10% of the total OAA Title III-B expenditures and at 25% of the total OAA Title III-E funds.

SUBRECIPIENT match funds must be from sources other than Federal funds, and SUBRECIPIENT will provide COUNTY with a statement of assurance stating this.

SUBRECIPIENT will invoice and receive direct reimbursement from the State of Oregon, Dept. of Human Services, Senior & People with Disabilities for Home Delivered Meals provided for authorized Medicaid clients at the state approved per meal rate.

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2. UNIT COST SCHEDULE

**Lake Oswego Adult Community Center**  
Fiscal Year 2016-17

	NSIP Funds	OAA III B Funds	OAA III D Funds	OAA III E Funds	OAA Match	Other State Funds	Ride Con Funds	Program Income	NO. OF UNITS	TOTAL COST	REIMBURSEMENT RATE
Federal Award Numbers	16AAORNSIP	16AAORT3SS	16AAORT3PH	16AAORT3FC	N/A	N/A	N/A	N/A			
CFDA Number	93.053	93.044	93.043	93.052							
Service Category	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Case Management		3,426			381				116	3,807	\$29.45
Reassurance		2,231			248				76	2,479	\$29.45
Info. & Assistance		3,922			436				242	4,358	\$16.23
Transportation - OAA III-B		4,687			521			469	937	5,677	\$5.00
Physical Activity/ Falls Prevention			900		0	4,200			102	5,100	\$50.00
Preventative Screening, Counseling, & Referrals			781		0				20	781	\$40.00
Respite Program				5,536	1,846				147	7,382	\$37.65
Trans - Ride Con In Dist					0		11,650	777	1,553	12,427	\$7.50
NSIP Meals	23,400				0				19,500	23,400	\$1.20
<b>TOTALS</b>	<b>\$23,400</b>	<b>\$14,266</b>	<b>\$1,681</b>	<b>\$5,536</b>	<b>\$3,432</b>	<b>\$4,200</b>	<b>\$11,650</b>	<b>\$1,245</b>		<b>\$65,410</b>	

Source of OAA Match - Staff time

**Total Contract Amount:**           \$60,733          

Federal Award Totals           \$44,883

### 3. UNITS OF SERVICE

SUBRECIPIENT or COUNTY may request substantive changes in the program activities as described in "Exhibit 1". Such changes must be mutually agreed upon by and between SUBRECIPIENT and COUNTY and incorporated in a written amendment to this contract. Such amendment shall not become effective until signed by both the SUBRECIPIENT and the COUNTY.

Client Service Objectives:

Service Category	Planned Number of Service Units	Unit of Measurement	Number of Unduplicated Clients to be Served
Case Management (OAA)	116	1 hour of service	55
Reassurance (OAA)	76	1 contact	50
Information and Assistance (OAA)	242	1 response to inquiry and follow up	70
Transportation (OAA)	937	1 one-way ride	80
Physical Activity/ Falls Prevention	102	1 class	18
Preventative Screening, Counseling, & Referrals	20	1 program/activity	20
Transportation (Ride Connection)	1,553	1 one-way ride	90
Food Service/Meal Site Management (OAA)	19,500	1 meal delivered/served	165

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**EXHIBIT 7  
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 SUBRECIPIENT, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the 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 making lobbying contacts to an officer or employee of any SUBRECIPIENT, 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 sub-awards at all tiers (including subcontracts, sub-grants, 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 Contractor, City of Lake Oswego, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: May 19, 2016

Company Name: City of Lake Oswego

Signature: Kent Studebaker

Name: Kent Studebaker  
(printed)

Title: Mayor



**EXHIBIT 8  
SUBRECIPIENT PROFILE**

1. City of Lake Oswego/Lake Oswego  
Adult Community Center  
Legal Name

2. IRS/STATE NONPROFIT NUMBER:  
N/A

505 G Ave.

3. CHIEF ADMINISTRATIVE OFFICIAL:

Lake Oswego, OR 97034  
City Zip

Name: Scott Lazenby  
Title: City Manager  
Address: P.O. Box 369  
Lake Oswego, OR 97034  
Phone: (503)635-0215

(503) 635-3758  
Phone Number

4. TYPE OF AGENCY: City

5. TYPE OF PROGRAM: Senior Center

6. AGENCY BOARD (LIST MEMBERS): ADVISORY BOARD (LIST MEMBERS):

Acting Board - City Council

Name	Term Expires
Kent Studebaker, Mayor	12/31/16
Karen Bowerman, Council Member	12/31/16
Joe Buck, Council Member	12/31/19
Jeff Gudman, Council Member	12/31/19
Jon Gustafon, Council Member	12/31/16
Jackie Manz, Council Member	12/31/19
Skip O'Neill, Council Member	12/31/16

7. AGENCY INFORMATION:

The following have been approved and adopted by the Agency's Board of Directors:

	<u>YES</u>	<u>NO</u>	Approved Usage Certificate	<u>YES</u>	<u>NO</u>
Written Personnel Policies	X				
Staff Job Descriptions	X		Fire Marshal	X	
Written Benefits Policies	X		Co. Health	X	
Affirmative Action Plan	X		County Zone	X	
Nondiscrimination Plan	X				
State/Federal Certifications	X				

Current Articles of Incorporation: City Charter – May 15, 1964

8. Types and Amounts of Insurance Held: Commercial General Liability \$4,000,000 per occurrence, \$12,000,000 aggregate; Commercial Automobile \$4,000,000

9. SUBRECIPIENT CERTIFICATION STATEMENT:

I certify that to the best of my knowledge, the information contained in the SUBRECIPIENT Profile is accurate and complete and that I have the legal authority to commit this SUBRECIPIENT to a contractual agreement.

Kent Studebaker

Signature: Kent Studebaker

Title: Mayor

May 19, 2016  
Date

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## RESPONSE SECTION

1. Describe your grievance procedure for clients and how CCSS will fit in the process:

### LAKE OSWEGO ADULT COMMUNITY CENTER PROCEDURES FOR HANDLING COMPLAINTS

Complaints are a natural result of being a visible, active organization providing services to the public. In order to maintain a positive climate in the community, and provide quality services to the public, we must be aware of any concerns about the programs and services we provide and have a consistent procedure for responding to complaints. Our preferred way to handle complaints is to solve them informally by the parties involved. This informal process encourages persons to freely express their concerns so that immediate action may be taken to resolve the issue in a positive way. While the informal process is preferred, it is also necessary to make available a formal process for taking a complaint elsewhere if it cannot be solved informally.

#### a. INFORMAL PROCEDURE

When staff\* or volunteers receive a complaint they should:

- i. Make sure that complainant talk directly to the staff person responsible for the day-to-day operation of the activity about which there is a complaint. If persons first receiving the complaint are not responsible for the particular activity, they should take the name and phone number of the complainant. Complainants should be advised that the person responsible for the activity will call them. It is the responsibility of persons first receiving the complaint to inform the person responsible for the activity about the complaint. It is preferable that persons not be passed from one person to another in order to have their complaint be heard.

\* If the complainant chooses to go first to the Recreation Department Director, the City Manager or the Center Advisory Board with the complaint, the informal process described here will normally be used. The Recreation Department Director, City Manager or the Center Advisory Board would refer the complaint to the Center Director to handle according to the informal process before initiating the formal process.

- ii. When staff receives a complaint about an activity for which they are responsible, they should try to resolve the problem as follows:
  - treat the complaint seriously;
  - ask the complainants what action they expect to be taken;
  - involve complainants in the process of devising a solution, if feasible;
  - inform complainants of what action will be taken, or why no action is necessary
- iii. If complainants still are not satisfied, they should be referred to the Center Director. The Director should be advised of this referral. This will allow the Director to begin to take any appropriate steps and/or follow-up with complainants should they fail to contact the Director. If the issue relates to Center programs, policies or procedures, the Director may request that the Center Advisory Board make a recommendation on the matter. Any decision must be in accordance with Adult Community Center policies and procedures, City

of Lake Oswego Policies, and in the case of contracted services, in accordance with established policies and procedures of the contracting agency and terms of the contract.

iv. If complainants still are not satisfied, the Formal Procedure will be initiated.

**b. FORMAL PROCEDURE**

If the problem has not been resolved after speaking to the Center Director, complainants may request a review by the Recreation Director. The Recreation Director will discuss with the complainants what the problem is and what action they would like taken. This will be summarized by the Recreation Department Director. The Recreation Director will request that the Center Director provide a written summary of the action taken to resolve the problem, and will review the information and discuss it with complainants. Within five (5) working days of this discussion, the Recreation Director will let complainants know what action is being taken.

If the problem is not resolved, the complaint must be readdressed in writing to the City Manager. Within 30 days of receipt of the complaint the City Manager will meet with complainants and the Adult Community Center Director to discuss the problem. When the hearing is over the City Manager will send a written decision within five (5) working days of the hearing. The decision of the City Manager is final as to whether actions taken were justified and whether circumstances warrant review by the City Council.

2. Describe your organization's procedure for prioritizing services for the target population of frail, low-income, minority and rural residents age 60 and older:

CRITERIA FOR ASSESSMENT, FAMILY CONSULTATION, I & A,  
AND CASE MONITORING

- Age, i.e., the older the more at risk, 75+ high risk
- Live alone or live with spouse who is also high risk or unable to assist client
- Lack of immediate relatives or support system to assist in care
- Poor health, recent hospitalization
- Low Income
- Immediacy of situation requiring intervention
- No other agency involved in care
- Apparent poor coping skills, i.e., confusion, apparent lack of judgment

CRITERIA FOR TRANSPORTATION

- See above
- Priority to those living independently

3. Describe your agency's operating procedures (use space provided only):

- a. Hours of Operation: From 8:00 a.m. to 4:30 p.m. Mon - Fri  
Total hours per day: 8.5 hrs/day Mon-Fri  
Total hours per week: 42.5

- b. Official Closures:
  - Martin Luther King Day
  - Presidents' Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Veterans' Day
  - Thanksgiving Day
  - Friday after Thanksgiving
  - Christmas Day
  - New Year's Day

4. Describe the boundaries of the area for which you propose to provide services.

BOUNDARIES:

Lake Oswego area, including Lake Grove.

North – Clackamas County/Multnomah County line, except part of LO that is in Multnomah County;

West – Clackamas County/Washington County line except small area of LO that is in Washington County;

South – Tualatin River to Stafford Rd., North on Stafford to SE Bergin Rd., S. to Crestline Dr., through Skylands to West Linn city limits;

East – Willamette River.

5. Show an organizational chart which identifies staff positions within the contracted program. Identify in the chart the number of FTE staff for each position, paid or volunteer.

Center Director (0.04 FTE)  
(Supervision of contracted services)

Social Services Coordinator (1 FTE)

Transportation, Nutrition

Driver (0.6 FTE)

Client Services Coordinator (0.8 FTE)

Assessments, Referral,  
Case Monitoring, Respite

6. Describe your methods for providing information about services.

All requests for information about services are handled by the Social Services Coordinator or the Client Services Coordinator.

1. Describe your methods for providing information about services.

All requests for information about services are handled by the Social Services Coordinator or the Client Services Coordinator

## **GUIDELINES FOR INCLUSION OF RESIDENTS OF CONGREGATE LIVING FACILITIES IN CLACKAMAS COUNTY SENIOR CENTER ACTIVITIES**

Clackamas County Senior Centers provide a variety of program and services for adults who are able to participate independently and without special assistance or supervision.

Those who use the Center must be:

1. Mobile or if of limited mobility, able to use walker, cane, wheelchair or other device completely unassisted.
2. Continent, or wear appropriate protective undergarments, and not need assistance with bathroom concerns.
3. Physically able to care for personal needs and be able to take part in activities selected without special assistance.
4. Mentally able to make responsible decisions regarding participation.
5. Able to behave in an appropriate manner so not to disrupt or require supervision.
6. Able to remove self from danger without assistance.
7. Or, if unable to meet the above criteria, accompanied by a caregiver provided by the family or facility where the individual lives, to assist as necessary to comply with guidelines.

If an individual lives in a care facility it is the responsibility of the facility to:

1. Determine if it is appropriate for their resident to take part in Center activities.
2. Make advance arrangements for such participation with the Center Director or appropriate designee.
3. Communicate the information contained in these guidelines to their employees, residents and/or residents' guardians and others involved in residents' care who should be aware of these guidelines.

### **Transportation**

Some Centers provide transportation to and from the Centers and to grocery shopping. Rides are subject to available space and priority is given to isolated individuals without access to transportation. Individuals using Center transportation must be able to:

1. Meet the Guidelines listed above.
2. Be physically able to use the transportation available.
3. Be mentally able to follow procedures, e.g., regarding arrival and departure, seat belt use, etc.

If an individual is being transported from a care facility by a Center bus, the facility must make arrangements in advance for that individual's transportation and is responsible to reimburse the Center for the bus fare.

Under no circumstances is the Center responsible for individuals who call and request a ride without the facility's knowledge and for whom a ride is given. The Center is not responsible for individuals who once arrive at the Center, leave the Center, make other arrangements to return home or request to be returned to a location other than the original pick up address.

**Nutrition**

Individuals who wish to participate in the Center's nutrition program must meet the guidelines listed above. If an individual is from a care facility, the facility must make arrangements in advance for that individual's participation in the nutrition program and is responsible to reimburse the Center for the meal cost.

**Emergency Care**

It is imperative that a care facility's staff provide contact information prior to one of their residents coming to the Center. It is imperative that a care facility's staff be accessible by phone for the period of time when their resident is taking part in Center activities. In the event that an individual who lives in a care facility becomes ill or incontinent while at the Center, the Center staff will call the facility. It is the facility's responsibility to provide transportation for the individual from the Center back to the facility. In the event of a serious illness or injury, the Center's staff will call "911" for emergency assistance. The facility will be notified by the Center's staff in order for the facility to provide follow-up instructions for care of their resident.

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RESOLUTION 16-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE OSWEGO AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CLACKAMAS COUNTY HEALTH, HOUSING, AND HUMAN SERVICES DEPARTMENT'S SOCIAL SERVICES DIVISION FOR FISCAL YEAR 2017.

WHEREAS, there is a need to provide social services to the citizens in Lake Oswego;

WHEREAS, Clackamas County has the funding available to provide social services to citizens in Lake Oswego through the Older Americans Act; and

WHEREAS, the City and Clackamas County have previously entered into intergovernmental agreements whereby the City has provided social services;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Oswego that the Mayor is authorized to execute on behalf of the City of Lake Oswego an Intergovernmental Agreement with the Clackamas County Health, Housing and Human Services, Social Services Division for fiscal year 2016/17, in the form attached as Exhibit A. This resolution shall be effective upon its adoption by the City Council.

Considered and enacted at the regular meeting of the City Council of the City of Lake Oswego on the 3rd of May, 2016.

AYES: Mayor Studebaker, Gudman, Gustafson, Collins, O'Neill, Manz, Buck.

NOES: None.

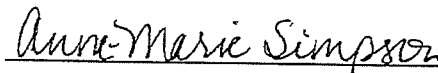
EXCUSED: None.

ABSTAIN: None.



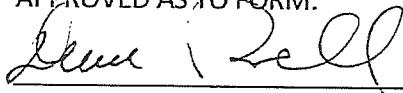
Kent Studebaker, Mayor

ATTEST:



Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:



David Powell, City Attorney



DRAFT

Approval of Previous Business Meeting Minutes:

May 12, 2016

(draft minutes attached)

## **BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES**

*A complete video copy and packet including staff reports of this meeting can be viewed at*

<http://www.clackamas.us/bcc/business.html>

**Thursday, May 12, 2016 – 10:00 AM**

**Public Services Building**

**2051 Kaen Rd., Oregon City, OR 97045**

**PRESENT:** Commissioner John Ludlow, Chair  
Commissioner Jim Bernard  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Commissioner Tootie Smith

### **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **I. CITIZEN COMMUNICATION**

<http://www.clackamas.us/bcc/business.html>

1. Sherry Hall, County Clerk gave an Election update.
2. Mack Woods, Canby, support of Veterans and Veteran's Tax Exemption.
3. Les Poole, Gladstone – questioning claims made by Commissioner Bernard.
4. Alice Richmond, West Linn – concerns regarding functions of the County Tourism Office.

*~Board Discussion~*

### **II. PRESENTATIONS**

1. Presentation- Mental Health Awareness Month - the Impact of Stigma & Mental Health and Local Priorities

Mary Rumbaugh, Nina Danielsen and Galli Murray Health Housing & Human Services presented the staff report and a Power Point presentation. They also recognized "Ordinary Superheroes" for the commitment they have made to the work of Hope, Healing and Recovery – Richard Swift, Michelle Veenker, Susie Schenk, Karen Carlin, Addam Stell, Cody Welty and Sheila Hamilton.

*~Board Discussion~*

2. Budget 101 Presentation

Don Krupp, County Administrator presented a PowerPoint - Show me the Money, How, County Taxpayer Dollars are spent and who decides. It included an overview of the 2016-2017 fiscal year budget and the budget schedule.

*~Board Discussion~*

### **III. CONSENT AGENDA**

Chair Ludlow asked the Clerk to read the consent agenda by title, he then asked for a motion.

#### **MOTION:**

Commissioner Smith: I move we approve the consent agenda.

Commissioner Schrader: Second.

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – the motion passes 5-0.

**A. Health, Housing & Human Services**

1. Approval of an Intergovernmental Agreement with the City of Gladstone for Addie Street Improvements in Northwest Gladstone – *Housing & Community Development*

**B. Department of Transportation & Development**

1. Approval of Amendment No. 2 to Intergovernmental Agreement No. 27472 with Oregon Department of Transportation for the Pudding River (Whiskey Hill Road) Bridge Project
- \*2. **REMOVED** - Approval to Purchase a New Wirtgen 120 CFI Asphalt Milling Machine from Modern Machinery for the Transportation Maintenance Division - *Procurement*

**C. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*

**D. Business & Community Services**

1. **Board Order No. 2016-40** Approving the Statutory Quitclaim Deed from the City of West Linn and the Statutory Quitclaim Deed to the City of West Linn

**E. Technology Services**

- \*1. Approval to Enter into a Contract with Robinson Bro. Construction, Inc. for the Installation of new Fiber Optic Cable - *Procurement*

**IV. NORTH CLACKAMAS PARKS & RECREATION DISTRICT**

1. **Resolution No.2016-41** for Transfer of Appropriations for North Clackamas Parks & Recreation District for Fiscal Year 2015-2016

**V. DEVELOPMENT AGENCY**

1. Approval of Amendment No. 1 to the Contract with Harper Houf Peterson Righellis Inc. for Consulting Services for Engineering Design and Construction Plans for the Otty Street Realignment Project- *Procurement*

**VI. WATER ENVIRONMENT SERVICES**

*(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)*

1. Approval of the Intergovernmental Agreement between Clackamas County Service District No. 1 and Clackamas River Water Providers for Clackamas River Watershed Activities

**VII. COUNTY ADMINISTRATOR UPDATE**

<http://www.clackamas.us/bcc/business.html>

**VIII. COMMISSIONERS COMMUNICATION**

<http://www.clackamas.us/bcc/business.html>

**MEETING ADJOURNED – 11:45 AM**



**JUVENILE DEPARTMENT**  
**JUVENILE INTAKE AND ASSESSMENT CENTER**  
2121 KAEN ROAD | OREGON CITY, OR 97045

June 9, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement**  
**With City of West Linn for Youth Offender Community Service Projects**

<b>Purpose/ Outcomes</b>	City of West Linn will provide youth offenders to complete community service projects, including litter patrol, brush cutting, ivy removal and leaf pickup/removal within their city.
<b>Dollar Amount and Fiscal Impact</b>	West Linn, Oregon will provide up to \$10,200 through June 30, 2017. There are no general fund dollars required.
<b>Funding Source</b>	City of West Linn, Oregon
<b>Duration</b>	Effective through June 30, 2017.
<b>Previous Board Action</b>	July 9, 2015; Agenda Item G.2.
<b>Strategic Plan Alignment</b>	Ensure safe, healthy, and secure communities: The revenue received from this contract will provide funds for the youth that are working to receive a stipend which is in turn used to pay restitution to victims, court fines, and fees.
<b>Contact Person</b>	Christina L. McMahan, Director – Juvenile Department – 503-655-8342 ext. 3171 or Crystal Wright, ext. 7112
<b>Contract No.</b>	N/A

**BACKGROUND:**

The City of West Linn and the Juvenile Department have worked collaboratively to provide community service work crew days for youth offenders to work within the City of West Linn. This Intergovernmental Agreement provides work for youth which then provides an avenue for the youth to earn funds to repay victims and pay their court fines and fees.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement.

Respectfully submitted,

Christina L. McMahan, Director  
Juvenile Department

**Amendment No. 1/Renewal No 1 to the 2015-IGA  
Between the County, through its Juvenile Department,  
and the City of West Linn  
For Community Service Work Crew Days**

This Renewal No. 1, when signed by each party, as authorized by the original Intergovernmental Agreement dated July 9, 2015, will become part of the contract documents, superseding the original to the applicable extent indicated.

**AGREEMENT FORM**

**Extend the term of the 2015 Intergovernmental Agreement through June 30, 2017.**

**The following terms to the IGA have been added:**

1. The value of this IGA is to be increased to \$10,200.
2. The scope of work will be expanded to include the options available on the attached Program Menu of Services.

**CITY OF WEST LINN**

**CLACKAMAS COUNTY, OREGON  
BOARD OF COUNTY**

By: \_\_\_\_\_  
Ken Worcester  
Parks and Recreation Director  
**Approved by County Counsel**

Chair: John Ludlow  
Commissioner: Jim Bernard  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Tootie Smith

By \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
John Ludlow, Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date



**JUVENILE DEPARTMENT**  
**JUVENILE INTAKE AND ASSESSMENT CENTER**  
2121 KAEN ROAD | OREGON CITY, OR 97045

June 9, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement**  
**With City of Damascus for your Offenders Community Service Projects**

<b>Purpose/ Outcomes</b>	City of Damascus will provide up to 6 days for youth offenders to complete community service projects, including litter patrol, brush cutting, ivy removal and leaf pickup/removal within their city.
<b>Dollar Amount and Fiscal Impact</b>	Damascus, Oregon will provide up to \$2,040 through June 30, 2017. There are no general fund dollars required.
<b>Funding Source</b>	City of Damascus, Oregon
<b>Duration</b>	Effective through June 30, 2017; <b>however this agreement will terminate on July 16, 2016 if the City of Damascus dis-incorporates.</b>
<b>Previous Board Action</b>	January 7, 2016; Item No. 01072016DI
<b>Strategic Plan Alignment</b>	Ensure safe, healthy, and secure communities: The revenue received from this contract will provide funds for the youth that are working to receive a stipend which is in turn used to pay restitution to victims, court fines, and fees.
<b>Contact Person</b>	Christina L. McMahan, Director – Juvenile Department – 503-655-8342 ext. 3171 or Crystal Wright ext. 7112.

**BACKGROUND:**

The City of Damascus and the Juvenile Department have worked collaboratively to provide community service work crew days for youth offenders to work within the City of Damascus. This Intergovernmental Agreement provides up to 6 days of work for youth which then provides an avenue for the youth to earn funds to repay victims and pay their court fines and fees.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement.

Respectfully submitted,

Christina L. McMahan, Director  
Juvenile Department

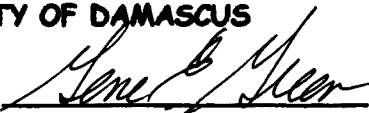
**Renewal No 1 to the 2015-IGA  
Between the County, through its Juvenile Department,  
and the City of Damascus  
For Community Service Work Crew Days**

This Renewal No. 1, when signed by each party, as authorized by the original Intergovernmental Agreement dated January 7, 2015, will become part of the contract documents, superseding the original to the applicable extent indicated.

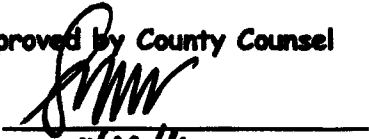
**AGREEMENT FORM**

Extend the term of the 2015 Intergovernmental Agreement through June 30, 2017.

**CITY OF DAMASCUS**

By   
Gene E. Green  
City Manager

Approved by County Counsel

By   
Date: 4/13/16


**CLACKAMAS COUNTY, OREGON  
BOARD OF COUNTY  
COMMISSIONERS**

Chair: John Ludlow  
Commissioner: Jim Bernard  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Tootie Smith

\_\_\_\_\_  
John Ludlow, Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date

- THIS AGREEMENT WILL TERMINATE ON JULY 16, 2016  
IF THE CITY OF DAMASCUS DISINCORPORATES. 

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN CLACKAMAS COUNTY, OREGON  
AND THE CITY OF DAMASCUS, OREGON  
FOR THE PROVISION OF YOUTH WORK CREWS FOR THE  
CITY OF DAMASCUS LITTER PROJECT**

**I. Purpose**

This agreement is entered into between Clackamas County (COUNTY), by and through its Juvenile Department and the City of Damascus (CITY) for the cooperation of units of local government under the authority of ORS 190.010. This agreement provides the basis for the Juvenile Department, Project Payback Program to provide supervised Youth Offender Work Crews (Work Crew) to perform general labor at sites under the control of the CITY.

**II. Scope of Work and Cooperation**

**A. CITY agrees to accomplish the following work under this agreement:**

1. Identify Work Crew projects, such as litter patrol, brush cutting/clearing, painting, ivy removal and leaf pick up/removal in Damascus.
2. Schedule Work Crew projects on a mutually agreed upon schedule.
3. Provide needed materials.
4. Obtain right of entry for work done on property not owned or controlled by the CITY.

**B. COUNTY agrees to:**

1. Collect litter from roadsides that are maintained by the Clackamas County Roads Department within the Damascus city limits.
2. Provide all labor and supervision. Supervisors will be trained and experienced in managing each work crew, with specific attention being paid to roadside safety. Approximately 5 to 8 youth shall be provided for each crew.
3. Use department involved youth to provide the services covered in this agreement and to ensure that appropriate youth are selected for participation. At no time will COUNTY use contracted labor for work on this project, other than crew supervisors. If COUNTY cannot meet these obligations, they will report said problems within 10 days to CITY's Community Services Director.



4. Collect all visible, unconcealed litter objects, greater than approximately one square inch in size. Bulky items may be separately set along the roadside. Items of excess, unmanageable weight, shall not be handled. Supervisors shall see that the workers perform according to the stipulations and use extreme caution at all times. COUNTY is responsible for the safety of the crews.
5. Will be responsible for collecting and disposing of filled garbage bags.

### III. Compensation

A. Compensation. The work will be performed on an as-needed basis, to be scheduled on dates agreed to by both parties. The specific locations and scope of work will be document in work order form submitted by CITY to COUNTY. CITY agrees to pay COUNTY an amount not to exceed \$340.00 per day for up to 6 days, total amount not to exceed \$2,040.00 for the services set forth in this Agreement. The rate is based on an estimate that work crews will clear littler up to 1.5 miles of roadway per day.

B. Payments. Interim payments shall be made on the basis of requests for payment submitted as follows:

1. COUNTY may bill quarterly, including itemized detail of hours worked.
2. All requests for payment are subject to the approval of CITY consistent with the terms of this Agreement.
3. CITY payments shall be mailed to:

Clackamas County Juvenile Department, 2121 Kaen Road, Oregon City  
OR 97045; Attn. Crystal Wright

### IV. Liaison Responsibility

Dan O'Dell will act as liaison from CITY for this project. Wayne Curry will act as liaison from the COUNTY.

### V. Special Requirements

- A. Hazardous Materials. In the event known or suspected hazardous material is discovered by COUNTY work crews at any work site, the supervisor shall immediately cease work activities until such time as the site is inspected and declared or made safe by the appropriate hazardous materials authority. No Work Crew provided under this agreement shall be required to clean up any work site when known or suspected hazardous materials are present.

- B. Conformance to Laws. COUNTY and CITY agree to comply with all applicable local, state and federal ordinances, statutes, laws and regulations. Specifically, COUNTY shall comply with Oregon Public Contracting Provisions pursuant to the requirements in ORS 279B.020 and 279B.220 through 249B.235.
- C. Indemnification. CITY agrees to indemnify, save harmless and defend the COUNTY, its officers, commissioners, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault, or negligence of CITY or its employees. COUNTY agrees to indemnify, save harmless, and defend the CITY, its officers, commissioners, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault, or negligence of COUNTY or its employees subject to the limitations if applicable set forth in Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 to 30.300.
- D. Insurance. Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274. COUNTY will provide liability insurance for those individuals on the work site for the purposes of all activities undertaken pursuant to this agreement and also provide adequate automobile insurance for any transport vehicle used to transport the Work Crews. If applicable, workers' compensation insurance shall also be provided. It is agreed to the extent permitted by law that COUNTY'S self insurance shall meet the obligations of this paragraph.
- E. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this agreement shall be clearly identified and readily accessible. Such reports and documents should be retained for a period of three (3) years after receipt of final payment under this agreement, provided that any records and documents that are subject to audit findings shall be retained for a longer time until such audit findings are resolved.
- F. Access to Records. The COUNTY shall have access to the books, documents, papers, and records of the CITY which are directly pertinent to the agreement for the purpose of making audit, examination, excerpts, and transcripts.

VI. Amendment

This agreement may be amended at any time with the concurrence of both parties. Amendments become a part of this agreement only after the written amendment has been signed by both parties.

VII. Term of Agreement

- A. Effective date. This agreement becomes effective December 15, 2015 or upon final signature whichever is later, and continues until June 30, 2016, unless amended or terminated in accordance with this Agreement. This IGA can be renewed for up to two (2) additional one year terms with the written approval of both parties.
- B. Termination. This agreement is subject to termination by either of the parties following thirty (30) days written notice to the other.

VIII. Debt Limitation of Oregon Counties

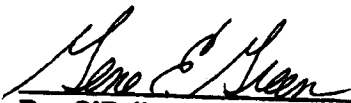
This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.

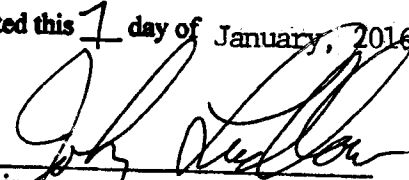
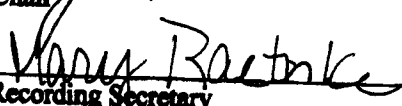
*WHEREAS, the aforementioned is hereby agreed upon by both parties and executed by the duly authorized signatures below.*

**CITY OF DAMASCUS**

**CLACKAMAS COUNTY, OREGON  
BOARD OF COUNTY COMMISSIONERS**

Dated this 7 day of January, 2016. D.I.

  
~~Dan O'Dell~~  
Title: City Manager Pro Tem  
Gene E. Green

  
Chair  
  
Recording Secretary

Approved as to form:

  
County Counsel



**NANCY S. BUSH**  
DIRECTOR

**DEPARTMENT OF EMERGENCY MANAGEMENT**  
**COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER**  
2200 KAEN ROAD OREGON CITY, OR 97045

June 9, 2015

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval to Apply for Federal Emergency Management Agency  
Flood Mitigation Assistance Grant to Acquire Flood-Damaged Residential Properties

<b>Purpose/Outcomes</b>	Removes Severe Repetitive Loss Properties from Floodplain
<b>Dollar Amount and Fiscal Impact</b>	FEMA grant will be for approximately \$400,000 for one house or \$750,000 for two. Project costs covered at up to 90% by FEMA grant and as little as 10% by owner. County provides administrative support for grant process.
<b>Funding Source</b>	FEMA Flood Mitigation Assistance (FMA) Program. No County General Funds are involved.
<b>Duration</b>	Thirty six month performance period from project approval date.
<b>Previous Board Action</b>	No prior action.
<b>Strategic Plan Alignment</b>	1. Minimize the immediate and long--term effects of disasters and major emergencies 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Jay Wilson, Resilience Coordinator
<b>Contract No.</b>	N/A

**BACKGROUND:**

The Clackamas County Department of Disaster Management requests approval to apply for a FEMA FMA grant to voluntarily acquire one or two Severe Repetitive Loss (SRL) residential properties that were damaged in the December 2015 event.

FEMA designates an SRL property as one having two or more Flood Insurance claims in a ten year period with damages that exceed 25% of the property value. These SRL properties are their highest priority to "buyout" and save federal taxpayer dollars from future flood losses.

These two homes are located on SE Rusk Road where we have a chronic flood problems and both homes are inside the FEMA mapped flood hazard zone.

**RECOMMENDATION:**

Staff recommends the Board approve this application and authorizes Nancy Bush, Disaster Management Director to sign on behalf of Clackamas County.

Respectfully submitted,

Nancy Bush, Director  
Department of Disaster Management



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with Moss Adams LLP for  
Annual Audit Services**

<b>Purpose/Outcomes</b>	<i>Annual Financial Audits Required By ORS 297.425</i>
<b>Dollar Amount and Fiscal Impact</b>	<i>\$396,800.</i>
<b>Funding Source</b>	<i>General Fund for the General County audits, other sources for the respective component units of government.</i>
<b>Duration</b>	<i>1 year</i>
<b>Previous Board Action/Review</b>	<i>N/A</i>
<b>Strategic Plan Alignment</b>	<i>This aligns with Performance Clackamas Goals of good government and transparency.</i>
<b>Contact Person</b>	<i>Christa Bosserman-Wolfe, Assistant Director of Finance</i>
<b>Contract No.</b>	<i>N/A</i>

**BACKGROUND:** Each year, Clackamas County and its component units of government are required by ORS 297.425 to undergo an annual financial audit and submit the reports to Oregon Secretary of State Audits Division. The County utilized a Request for Proposal process to select the provider most qualified to provide audit services.

A Request for Proposals was advertised on February 8 2016. Three (3) responsive and responsible proposals were received at the time of closing on March 3, 2016: Moss Adams LLP, Talbot Korvola & Warwick, LLP and Eide Bailly LLP. An evaluation committee composed of representatives from Water Environment Services, County Treasurer, the Audit Committee and Finance evaluated each response based on the criteria listed in the Request for Proposal. Based on those criteria, the proposal from Moss Adams LLP was the one best meeting the needs of the County for this project.



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

While contracted services are bundled for efficiency and cost effectiveness, actual audit costs are distributed over the respective financial entities. Contracted audit services cover:

Clackamas County's Comprehensive Annual Financial Report	\$141,100
General County Single Audit for grant programs	100,500
Development Agency	24,000
Service District 1	25,600
Service District 5	3,300
North Clackamas Parks and Recreation District	24,000
Surface Water Management	4,700
TriCity Service District	14,900
Enhanced Law Enforcement District	3,300
Library District	3,300
Extension & 4H Service District	3,300
Housing Authority	48,800
	\$396,800

**RECOMMENDATION:** County staff respectfully recommends that the Board approve the contract for with Moss Adams LLP for Annual Financial Audit Services.

Respectfully submitted,

Christa Bosserman-Wolfe, CPA  
Assistant Finance Director

Placed on the Agenda of June 9<sup>th</sup>, 2016 by the Procurement Division

**PROFESSIONAL SERVICES CONTRACT WITH MOSS ADAMS LLP TO PROVIDE ANNUAL AUDIT SERVICES**

This contract is entered into by and between Clackamas County, hereinafter referred to as the COUNTY, and **MOSS ADAMS LLP**, hereinafter called the CONTRACTOR, to provide the services described in Section II below. The following provisions shall comprise this contract:

**I. COMPENSATION:**

**A.** The COUNTY agrees to compensate the CONTRACTOR on a fee-for-service basis at the rates outlined in the Proposal Response. This agreement covers the period **from contract execution** though **April 30, 2017** for the 2015/2016 fiscal year. Total maximum contract compensation not to exceed **\$396,800**. Invoices presented in connection with this Agreement are due and payable upon presentation. All charges will be billed monthly where appropriate.

**B.** The CONTRACTOR is engaged hereby as an independent contractor and will be so deemed for purposes of the following:

- 1.** The CONTRACTOR will be solely responsible for payment of any Federal or State taxes required as a result of this agreement.
- 2.** This contract is not intended to entitle the CONTRACTOR to any benefits generally granted to COUNTY employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this contract to the CONTRACTOR are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the CONTRACTOR is presently a member of the Public Employees Retirement System).
- 3.** The CONTRACTOR shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which are incorporated herein by this reference.

All subject employers working under this contract are either employers that comply with ORS 656.017 or employers that are exempt under ORS 656.126.

**C.** The CONTRACTOR certifies that, at present, he is not a program, County or Federal employee.

**D.** The CONTRACTOR certifies that he is not a member of the Public Employees Retirement System.

**II. SERVICES TO BE PROVIDED:**

The contractor shall do, perform, and carry out in a satisfactory manner, the work as described in the Request for Proposals issued **FEBRUARY 8, 2016**, the Proposal Response received at the time of closing on **MARCH 3, 2016 ANNUAL AUDIT SERVICES** for the rates established therein. The CONTRACTOR shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.

### **III. CONSTRAINTS**

The CONTRACTOR agrees:

- A.** If the services to be provided pursuant to Section I Scope are professional and/or consultative, the CONTRACTOR shall not delegate the responsibility for providing those services to any other individual or agency.
- B.** Pursuant to the requirements of state law, the following terms and conditions are made a part of this Contract:
  - 1.** CONTRACTOR shall:
    - a.** Make payments promptly, as due, to all persons supplying to the CONTRACTOR labor or materials for the prosecution of the work provided for in this Contract.
    - b.** Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in the performance of this Contract.
    - c.** Not permit any lien or claim to be filed or prosecuted against the COUNTY on account of any labor or material furnished.
  - 2.** If the CONTRACTOR fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the CONTRACTOR or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the CONTRACTOR by reason of this Contract.
  - 3.** The CONTRACTOR shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which are incorporated herein by this reference.  
All subject employers working under the Contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
  - 4.** The CONTRACTOR shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the CONTRACTOR, of all sums which the CONTRACTOR agrees to pay for such services and all moneys and sums which the CONTRACTOR collected or deducted from the wages of the CONTRACTOR'S employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
  - 5.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.



**6.** The CONTRACTOR shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work as described in Attachment A under this Contract. CONTRACTOR must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of CONTRACTOR'S warranty, that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a.** Termination of this Contract, in whole or in part;
- b.** Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to COUNTY'S setoff right, without penalty; and
- c.** Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of CONTRACTOR'S breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**7.** To the extent the CONTRACTOR is negligent, the CONTRACTOR shall indemnify, hold harmless and defend the COUNTY, its officers, commissioners, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof (including but not limited to attorney's fees), arising out of or based upon damage or injuries to persons or property caused by the negligent acts, errors, omissions, or fault of the CONTRACTOR or the CONTRACTOR'S employees or agents.

**8.** The CONTRACTOR'S failure to perform the scope of work identified or failure to meet established performance standards shall be subject to consequences that include but are not limited to any or all of:

- a.** Reducing or withholding payment;
- b.** Requiring the CONTRACTOR to perform, at the CONTRACTOR'S expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
- c.** Declaring a default, terminating the Contract and seeking damages and other relief under the terms of the Contract or other applicable law.

**9.** The CONTRACTOR represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- a. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- b. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, to CONTRACTOR'S property, operations, receipts, or income, or to CONTRACTOR'S performance of or compensation for any work performed by CONTRACTOR;
- c. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, or to goods, services, or property, whether tangible or intangible, provided by CONTRACTOR; and
- d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**IV. INSURANCE REQUIREMENTS**

**A. Commercial General Liability**

Required by COUNTY       Not required by COUNTY

The CONTRACTOR agrees to furnish the COUNTY evidence of commercial general liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence / \$2,000,000 general annual aggregate for personal injury and property damage for the protection of the COUNTY, its officers, commissioners, 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 Contract. The COUNTY, at its option, may require a complete copy of the above policy.

**B. Automobile Liability**

Required by COUNTY       Not required by COUNTY

The CONTRACTOR agrees to furnish the COUNTY evidence of business automobile liability insurance in the amount of not less than \$500,000 combined single limit for bodily injury and property damage for the protection of the COUNTY, its officers, commissioners, agents and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The COUNTY, at its option, may require a complete copy of the above policy.

**C. Professional Liability**

Required by COUNTY       Not required by COUNTY

CONTRACTOR agrees to 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, commissioners, agents 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 Contract. COUNTY, at its option, may require a complete copy of the above policy.

**D.** If the CONTRACTOR has the assistance of other persons in the performance of this Contract, and the CONTRACTOR is a subject employer, the CONTRACTOR agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The CONTRACTOR shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

**E.** If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the CONTRACTOR'S insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided the coverage's retroactive date is on or before the effective date of this Contract.

**F.** The insurance, other than the professional liability and workers compensation insurance, shall include the COUNTY as an expressly scheduled additional insured. Proof of insurance must include a copy of the endorsement showing the COUNTY as a scheduled insured. Such insurance shall provide sixty (60) days written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.

**G.** Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County in writing.

**V. SUBCONTRACTS:**

The CONTRACTOR shall be responsible to the COUNTY for the actions of persons and firms performing subcontract work. The CONTRACTOR certifies that the CONTRACTOR has not discriminated and will not discriminate against any minority, women or emerging small business enterprise that is owned or controlled by or that employs a disabled veteran, in obtaining any subcontract.

Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the CONTRACTOR under this Contract, unless this requirement is expressly modified or waived by the COUNTY in writing.

**THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.**

**VI. TERMINATION-AMENDMENT:**

- A.** This Contract may be terminated by either party upon at least ten (10) days written notice to the other.
  
- B.** This Contract and any amendments to this contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County.
  
- C.** This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

The undersigned, by its signature, agrees to perform the scope of work as described in the Contract documents and meet the performance standards set forth therein. By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

MOSS ADAMS LLP  
975 Oak Street, Suite 500  
Eugene, OR 97401

CLACKAMAS COUNTY BOARD OF  
COUNTY COMMISSIONERS by:

\_\_\_\_\_  
Entity Type/State of Formation\*

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Name / Title Printed

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone / Fax Number

\_\_\_\_\_  
Oregon Business Registry #

\_\_\_\_\_  
County Counsel  
Approved as to Form

\* Please do not provide assumed business names or trade names. Please provide only the correct legal name of the entity or individual entering into the Contract.



Gregory L. Geist  
Director

June 9, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Amendment No. 1 to the Intergovernmental Agreement between Clackamas  
County Service District No. 1, Tri-City Service District and Clackamas County  
for Facilities Management and Maintenance

<b>Purpose/Outcomes</b>	This Amendment is to extend the term of contracted services from the County Facilities Department for maintenance and repair of selected facilities in Clackamas County Service District No. 1 with a reduced scope and budget.
<b>Dollar Amount and Fiscal Impact</b>	Retroactively extend the Agreement for the original amount of \$270,000 annually through June 30, 2016, then reduce the scope and budget down to \$200,000 for Fiscal Year 16/17.
<b>Funding Source</b>	Clackamas County Service District No. 1's share of \$134,000.00 from the operation and maintenance budgets. No General Funds involved.
<b>Duration</b>	July 1, 2015 – June 30, 2017
<b>Previous Board Action/Review</b>	Approved the original Intergovernmental Agreement —051514 VIII. 1.
<b>Strategic Plan Alignment</b>	1. WES customers will benefit from a well-managed utility, and WES priorities and policy recommendations will reflect optimum economies of scale. 2. Build trust through good government
<b>Contact Person</b>	Greg Eyerly, WES Operations Manager, 503-557-2802
<b>Contract No.</b>	N/A

**BACKGROUND:**

In 2015, Clackamas County Service District No. 1 (“CCSD #1”), the Tri-City Service District and Clackamas County (“County”) entered into an Intergovernmental Agreement for Facilities Management and Maintenance for an annual total of \$270,000 that covered all the facilities, excluding pump stations, within the two Districts. The Agreement term expired on June 30, 2015, and the parties have continued to perform in accordance with that Agreement. Moving forward, CCSD #1 and the County desire to continue this arrangement and acknowledge the work performed since the expiration by retroactively extending the Agreement term.

Further, with the current backlog in service requests for the County Facilities Department, as well as the need to optimize the power usage at CCSD #1’s treatment facility through the Strategic Energy Management Program, CCSD #1 worked with Facilities Department to reduce the scope of services requested from the Facilities Department. CCSD #1’s plant staff will directly manage any facilities projects outside the agreed upon scope of services attached to this Amendment No. 1.

**RECOMMENDATION:**

CCSD #1 staff recommend the Board of County Commissioners of Clackamas County, acting as the governing body of Clackamas County Service District No. 1, approve the Amendment No. 1 to the Intergovernmental Agreement between Clackamas County Service District No. 1, Tri-City Service District and Clackamas County for Facilities Management and Maintenance.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services

**AMENDMENT No. 1  
TO THE  
INTERGOVERNMENTAL AGREEMENT BETWEEN  
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1,  
TRI-CITY SERVICE DISTRICT AND  
CLACKAMAS COUNTY FOR  
FACILITIES MANAGEMENT AND MAINTENANCE**

This AMENDMENT NO. 1 to the INTERGOVERNMENTAL AGREEMENT (this “Amendment No. 1”) is made and entered into on the \_\_\_\_ of \_\_\_\_\_, 2016, by and between CLACKAMAS COUNTY SERVICE DISTRICT NO.1 and TRI-CITY SERVICE DISTRICT, both county service districts formed under ORS 451 (“District”), and CLACKAMAS COUNTY, a political subdivision of the State of Oregon (“County”), for providing facilities management and maintenance services, hereinafter referred to as the “Services.”

WHEREAS, the parties entered into that certain Intergovernmental dated May 15, 2014 for providing facilities management and maintenance services (the “Agreement”); and

WHEREAS, the parties have continued to perform under the conditions of the Agreement after the expiration of the original term; and

WHEREAS, the parties desire to ratify the work completed since the expiration of the original Agreement term and continue the arrangement with a reduced scope of Services by extending the term of the Agreement, modifying Exhibit A and reducing the maximum compensation contained therein;

NOW, THEREFORE, for good and sufficient consideration, the parties hereby agree that:

1. To reflect an extension of the term, the Agreement’s Paragraph 2.1 is hereby replaced in its entirety with:

**2.1 Term.** Unless earlier terminated, this Agreement shall commence retroactively on July 1, 2015 and remain in full force and effect until June 30, 2017. The parties acknowledge that the County has been performing Services under the Agreement on District facilities since July 1, 2015 and hereby ratify those Services.

2. To reflect a change in the Scope, the Agreement’s Exhibit A is hereby replaced in its entirety with the following, which shall be effective as of June 30, 2016:

See Exhibit A attached hereto and incorporated therein.

3. To reflect a decrease of total annual compensation by \$70,000 starting on June 30, 2016, the Agreement’s Article 3.1 is hereby replaced in its entirety with:

**3.1 Compensation.** The Districts agree to pay the County an amount not to exceed TWO HUNDRED AND SEVENTY THOUSAND and 00/100 Dollars (\$270,000.00) annually through June 30, 2016, after which the Districts agree to pay the County an amount not to exceed TWO HUNDRED THOUSAND and 00/100 Dollars (\$200,000.00) annually in accordance with a reduced Scope of Services. Notwithstanding anything else to the contrary herein, no changes in the amounts-not-to-exceed above shall be made without prior written approval of the Districts. The costs shall be apportioned to the Districts based on the scope and frequency of services provided by the County. The exact level of compensation for services performed during fiscal year 2015-2016 shall be determined after the parties evaluate the detailed accounting provided in section 3.2.2 of this Agreement.

4. The District and the County ratify the remainder of the Agreement and affirm that no other changes are made hereby.

*[Signature Page Follows]*



IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

**CLACKAMAS COUNTY SERVICE DISTRICT NO. 1:**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recording Secretary

**TRI-CITY SERVICE DISTRICT:**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recording Secretary

**CLACKAMAS COUNTY:**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recording Secretary

## **EXHIBIT A – SCOPE OF SERVICES**

As of June 30, 2016, the scope of services shall be limited to maintenance and the facilities management of the three facilities identified below. The scope of services does not include the costs associated with any capital improvements to any facility.

### **TRI-CITY SERVICE DISTRICT**

#### **TRI-CITY WASTEWATER TREATMENT PLANT - ADMINISTRATION AND WATER QUALITY LABORATORY BUILDINGS**

- Facilities overhead
- Select security system product updates
- Janitorial paper products
- General building maintenance supplies
- Building repairs & maintenance
- Plumbing repairs & maintenance
- HVAC repair & maintenance
- Painting – interior only
- Security system repairs & maintenance
- Janitorial
- Grounds maintenance
- Landscape
- Vandalism/graffiti removal & repair

### **CLACKAMAS COUNTY SERVICE DISTRICT NO. 1**

#### **KELLOGG CREEK WATER RESOURCE RECOVERY FACILITY - ADMINISTRATION BUILDING, LOCKER ROOM AND LUNCHROOM**

- Facilities overhead
- Janitorial paper products
- General building maintenance supplies
- Building repairs & maintenance
- Plumbing repairs & maintenance
- HVAC repair & maintenance
- Painting – interior only
- Janitorial
- Grounds maintenance
- Landscape
- Vandalism/graffiti removal & repair

#### **HOODLAND**

- Work as requested. Additional project costs not included in the allocated budget.

#### **BORING**

- Work as requested. Additional project costs not included in the allocated budget.

#### **82<sup>ND</sup> DRIVE BRIDGE (GLADSTONE & OREGON CITY BRIDGE)**

- Work as requested. Additional project costs not included in the allocated budget.



Gregory L. Geist  
Director

June 2, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Amendment No. 1 to the Intergovernmental Agreement between Clackamas  
County Service District No. 1, Tri-City Service District and Clackamas County  
for Facilities Management and Maintenance

<b>Purpose/Outcomes</b>	This Amendment is to extend the term of contracted services from the County Facilities Department for maintenance and repair of selected facilities in Tri-City Service District with a reduced scope and budget.
<b>Dollar Amount and Fiscal Impact</b>	Retroactively extend the Agreement for the original amount of \$270,000 annually through June 30, 2016, then reduce the scope and budget down to \$200,000 for Fiscal Year 16/17.
<b>Funding Source</b>	The Tri-City Service District's share of \$66,000.00 from the operation and maintenance budgets. No General Funds involved.
<b>Duration</b>	July 1, 2015 – June 30, 2017
<b>Previous Board Action/Review</b>	Approved the original Intergovernmental Agreement—051514 VIII. 1.
<b>Strategic Plan Alignment</b>	1. WES customers will benefit from a well-managed utility, and WES priorities and policy recommendations will reflect optimum economies of scale. 2. Build trust through good government
<b>Contact Person</b>	Greg Eyerly, WES Operations Manager, 503-557-2802
<b>Contract No.</b>	N/A

**BACKGROUND:**

In 2015, Clackamas County Service District No. 1, the Tri-City Service District (“TCSD”) and Clackamas County (“County”) entered into an Intergovernmental Agreement for Facilities Management and Maintenance for an annual total of \$270,000 that covered all the facilities excluding pump stations within the two Districts. The Agreement term expired on June 30, 2015 and the parties have continued to perform in accordance with that Agreement. Moving forward, TCSD and the County desire to continue this arrangement and acknowledge the work performed since the expiration by retroactively extending the Agreement term.

Further, with the current backlog in service requests for the County Facilities Department, as well as the need to optimize the power usage at TCSD’s treatment facility through the Strategic Energy Management Program, TCSD worked with the Facilities Department to reduce the scope of services requested from the Facilities Department. TCSD’s plant staff will directly manage any facilities projects outside the agreed upon scope of services attached to this Amendment No. 1.

**RECOMMENDATION:**

TCSD staff recommend the Board of County Commissioners of Clackamas County, acting as the governing body of the Tri-City Service District, approve the Amendment No. 1 to the Intergovernmental Agreement between Clackamas County Service District No. 1, Tri-City Service District and Clackamas County for Facilities Management and Maintenance.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services

## **EXHIBIT A – SCOPE OF SERVICES**

As of June 30, 2016, the scope of services shall be limited to maintenance and the facilities management of the three facilities identified below. The scope of services does not include the costs associated with any capital improvements to any facility.

### **TRI-CITY SERVICE DISTRICT**

#### **TRI-CITY WASTEWATER TREATMENT PLANT - ADMINISTRATION AND WATER QUALITY LABORATORY BUILDINGS**

- Facilities overhead
- Select security system product updates
- Janitorial paper products
- General building maintenance supplies
- Building repairs & maintenance
- Plumbing repairs & maintenance
- HVAC repair & maintenance
- Painting – interior only
- Security system repairs & maintenance
- Janitorial
- Grounds maintenance
- Landscape
- Vandalism/graffiti removal & repair

### **CLACKAMAS COUNTY SERVICE DISTRICT NO. 1**

#### **KELLOGG CREEK WATER RESOURCE RECOVERY FACILITY - ADMINISTRATION BUILDING, LOCKER ROOM AND LUNCHROOM**

- Facilities overhead
- Janitorial paper products
- General building maintenance supplies
- Building repairs & maintenance
- Plumbing repairs & maintenance
- HVAC repair & maintenance
- Painting – interior only
- Janitorial
- Grounds maintenance
- Landscape
- Vandalism/graffiti removal & repair

#### **HOODLAND**

- Work as requested. Additional project costs not included in the allocated budget.

#### **BORING**

- Work as requested. Additional project costs not included in the allocated budget.

#### **82<sup>ND</sup> DRIVE BRIDGE (GLADSTONE & OREGON CITY BRIDGE)**

- Work as requested. Additional project costs not included in the allocated budget.



Gregory L. Geist  
Director

June 9, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Amendment No. 1 to the Agreement between Clackamas County Service District No. 1 and MWH Americas, Inc. for Professional Engineering Services for the Tri-City Water Pollution Control Plant Blower Upgrades Project

<b>Purpose/Outcomes</b>	Replace failing blowers with proven technology to improve reliability and ensure stable operation of the treatment system.
<b>Dollar Amount and Fiscal Impact</b>	Funding for professional engineering services is available in the FY2015-16 budget and funding will be requested in the FY2016-17 budget. Amendment No.1 increases the original agreement by \$54,488.00 for Clackamas County Service District No. 1 and \$23,352.00 for the Tri-City Service District for a new total agreement amount from \$150,000 to a not to exceed amount of \$227,840.00.
<b>Funding Source</b>	Clackamas County Service District No.1 and Tri-City Service District FY 2015-16 and 2016-17 annual budgets
<b>Duration</b>	June 2, 2016 to June 30, 2017
<b>Previous Board Action/Review</b>	None
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This project supports the WES Strategic Plan to provide wastewater and storm water infrastructure necessary to support partner communities and economic development over the next 20 years.</li> <li>2. This project supports the County Strategic Plan to build a strong infrastructure.</li> </ol>
<b>Contact Person</b>	Randy Rosane PE, Project Manager – Water Environment Services – 503-742-4573
<b>Contract No.</b>	P112160

**BACKGROUND:**

The HSI HT-Series Turbo blowers provided as part of the Tri-City Water Pollution Control Plant Phase I Expansion were installed in April 2011 to serve the existing conventional activated sludge (CAS) treatment system for the Tri-City Service District (“TCSD”) and a new membrane bioreactor (MBR) treatment system constructed by Clackamas County Service District No.1 (“CCSD#1”).

These critical pieces of equipment move large volumes of air into the treatment process and are essential for plant operations. The Turbo blowers were chosen because of their high energy efficiency ratings. However, the blowers experienced significant problems immediately upon installation, leading to TCSD and CCSD#1 requesting and receiving a warranty extension from

April 2011 to April 2016. Since that time the HSI blower manufacturers were bought out by Atlas Copco.

Seeing that the blower reliability issues were not improving and that the end of the warranty period was approaching, TCSD and CCSD#1 staff sought an independent review of the blower situation. MWH Americas, Inc. completed an evaluation of the existing blower's performance in February 2015 and determined that "Long-term operation of Turbo blowers is not tenable. There is evidence to suggest the Turbo blower performance will worsen, not improve" and "The extended period of time the CAS and MBR treatment trains must operate without suitable standby capacity is an unacceptable risk for potential effluent discharge violations". The blowers have continued to be unreliable since they were installed and the warranty has expired.

On April 21, 2015 the Director of Water Environment Services executed an agreement between Clackamas County Service No.1, the Tri-City Service District and MWH Americas Inc. to design, prepare bid documents and provide services during construction to replace the failing blowers for an amount not to exceed \$150,000.

The design was completed and bid in January 2016. The low bidder for construction is Stettler Supply Company for an amount not to exceed \$1,581,085.00.

During construction, but prior to ordering the replacement blowers, Atlas Copco came to the plant and offered to replace the blowers at no cost to TCSD and CCSD#1 and provide a temporary blower for back-up during redesign and manufacturing of the replacement blowers. Stettler has stopped work while we redesign the project. Once the redesign is complete TCSD and CCSD#1 will negotiate a deductive change order to the Stettler Construction contract eliminating the blowers from their contract with TCSD and CCSD#1.

TCSD and CCSD#1 have negotiated Amendment No.1 with MWH Americas, Inc. for redesign and extended services during construction for an amount not to exceed \$54,488.00 for CCSD#1 and \$23,352.00 for TCSD for a total not to exceed amendment of \$77,840.00.

**RECOMMENDATION:**

TCSD and CCSD#1 staff recommend the Board of County Commissioners of Clackamas County, acting as the governing body of Clackamas County Service District No. 1, approve and execute Amendment No.1 to the Agreement between Clackamas County Service District No. 1, the Tri-City Service District and MWH Americas, Inc. for an amount not to exceed \$227,840.00.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services

**AMENDMENT No. 1  
TO PROFESSIONAL CONSULTING SERVICES AGREEMENT  
FOR THE TRI-CITY WATER POLLUTION CONTROL PLANT  
BLOWER UPGRADE PROJECT**

This AMENDMENT NO. 1 to the PROFESSIONAL CONSULTING SERVICES AGREEMENT (this “Amendment No. 1”) is made and entered into on the \_\_\_\_ day of \_\_\_\_\_ 2016, by and between CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 and the TRI-CITY SERVICE DISTRICT, county service districts formed under ORS 451 (“Districts”), and **MWH AMERICAS, INC.**, a California corporation (“Consultant”), for performing professional services for the TRI-CITY WATER POLLUTION CONTROL PLANT BLOWER UPGRADE PROJECT, hereinafter referred to as the “Project.”

WHEREAS, the parties entered into that certain Agreement to Furnish Professional Consulting Services dated April 21, 2015 to assist the Districts with the design and development of bid documents to replace the existing blowers that serve the Conventional Activated Sludge System and the Microbiological Reactor treatment process systems (the “Agreement”); and

WHEREAS, the parties desire to continue and extend the services to accommodate unplanned and necessary work to modify the design and specifications based on changes to the project.

NOW, THEREFORE, for good and sufficient consideration, the parties hereby agree that:

1. To reflect an increase in total compensation by \$77,840.00, the Agreement’s, paragraph 5.1.1 is hereby replaced in its entirety with:

5.1.1 The DISTRICTS agree to pay the CONTRACTOR on a time and materials basis with a not-to-exceed amount equal to TWO HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED FORTY 00/100 dollars (**\$227,840.00**) (the “Maximum Amount”) for services billed monthly. Notwithstanding anything else to the contrary herein, no changes in the Maximum Amount shall be made without prior written approval of the DISTRICTS.

2. To reflect the addition of unplanned and necessary work to modify the design and specifications based on changes to the project, Exhibits A and B are hereby supplemented with the following:

Exhibit A (Amended) and Exhibit B (Amended) attached hereto and incorporated therein.

3. To reflect the changes in state tax law, the following section is inserted in Article 3 – Consultant’s Responsibilities:

**3.6 Compliance with Tax Law**

3.6.1 The CONTRACTOR shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work under this Contract. CONTRACTOR must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of CONTRACTOR’S warranty, in this Contract that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle DISTRICT to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;



- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to DISTRICT setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. DISTRICT shall be entitled to recover any and all damages suffered as the result of CONTRACTOR'S breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and DISTRICTS may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

3.6.2 The CONTRACTOR represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- a. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- b. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, to CONTRACTOR'S property, operations, receipts, or income, or to CONTRACTOR'S performance of or compensation for any work performed by CONTRACTOR;
- c. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, or to goods, services, or property, whether tangible or intangible, provided by CONTRACTOR; and
- d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions

4. The DISTRICTS and the CONTRACTOR ratify the remainder of the Agreement and affirm that no other changes are made hereby.

In witness thereof, the parties execute this Amendment No. 1 as of the date set forth above.

MWH AMERICAS, INC.  
806 SW BROADWAY, STE 200  
PORTLAND, OREGON 97123

CLACKAMAS COUNTY BOARD OF COUNTY  
COMMISSIONERS Acting as the Governing Body  
of the TRI-CITY SERVICE DISTRICT by:

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Federal Tax ID Number

CLACKAMAS COUNTY BOARD OF COUNTY  
COMMISSIONERS Acting as the Governing Body  
of CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recording Secretary



Gregory L. Geist  
Director

June 9, 2016

Board of County Commissioners  
Clackamas County

Members of the Board:

Amendment No. 1 to the Agreement between the Tri-City Service District and  
MWH Americas, Inc. for Professional Engineering Services for the  
Tri-City Water Pollution Control Plant Blower Upgrades Project

<b>Purpose/Outcomes</b>	Replace failing blowers with proven technology to improve reliability and ensure stable operation of the treatment system.
<b>Dollar Amount and Fiscal Impact</b>	Funding for professional engineering services is available in the FY2015-16 budget and funding will be requested in the FY2016-17 budget. Amendment No.1 increases the original agreement by \$54,488.00 for CCSD#1 and \$23,352.00 for the Tri-City Service District for a new total agreement amount from \$150,000 to a not to exceed amount of \$227,840.00.
<b>Funding Source</b>	Clackamas County Service District No.1 and Tri-City Service District FY 2015-16 and 2016-17 annual budgets
<b>Duration</b>	June 2, 2016 to June 30, 2017
<b>Previous Board Action/Review</b>	None
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This project supports the WES Strategic Plan to provide wastewater and storm water infrastructure necessary to support partner communities and economic development over the next 20 years.</li> <li>2. This project supports the County Strategic Plan to build a strong infrastructure.</li> </ol>
<b>Contact Person</b>	Randy Rosane PE, Project Manager – Water Environment Services – 503-742-4573
<b>Contract No.</b>	P202161

**BACKGROUND:**

The HSI HT-Series Turbo blowers provided as part of the Tri-City Water Pollution Control Plant Phase I Expansion were installed in April 2011 to serve the existing conventional activated sludge (CAS) treatment system for the Tri-City Service District (“TCSD”) and a new membrane bioreactor (MBR) treatment system constructed by Clackamas County Service District No.1 (“CCSD#1”).

These critical pieces of equipment move large volumes of air into the treatment process and are essential for plant operations. The Turbo blowers were chosen because of their high energy efficiency ratings. However, the blowers experienced significant problems immediately upon installation, leading to TCSD and CCSD#1 requesting and receiving a warranty extension from

April 2011 to April 2016. Since that time the HSI blower manufacturers were bought out by Atlas Copco.

Seeing that the blower reliability issues were not improving and that the end of the warranty period was approaching, TCSD and CCSD#1 staff sought an independent review of the blower situation. MWH Americas, Inc. completed an evaluation of the existing blower's performance in February 2015 and determined that "Long-term operation of Turbo blowers is not tenable. There is evidence to suggest the Turbo blower performance will worsen, not improve" and "The extended period of time the CAS and MBR treatment trains must operate without suitable standby capacity is an unacceptable risk for potential effluent discharge violations". The blowers have continued to be unreliable since they were installed and the warranty has expired.

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During construction, but prior to ordering the replacement blowers, Atlas Copco came to the plant and offered to replace the blowers at no cost to TCSD and CCSD#1 and provide a temporary blower for back-up during redesign and manufacturing of the replacement blowers. Stettler has stopped work while we redesign the project. Once the redesign is complete TCSD and CCSD#1 will negotiate a deductive change order to the Stettler Construction contract eliminating the blowers from their contract with TCSD and CCSD#1.

TCSD and CCSD#1 have negotiated Amendment No.1 with MWH Americas, Inc. for redesign and extended services during construction for an amount not to exceed \$54,488.00 for CCSD#1 and \$23,352.00 for TCSD for a total not to exceed amendment of \$77,840.00.

**RECOMMENDATION:**

TCSD and CCSD#1 staff recommend the Board of County Commissioners of Clackamas County, acting as the governing body of the Tri-City Service District, approve and execute Amendment No.1 to the Agreement between Clackamas County Service District No. 1, the Tri-City Service District and MWH Americas, Inc. for an amount not to exceed \$227,840.00.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services

**AMENDMENT No. 1  
TO PROFESSIONAL CONSULTING SERVICES AGREEMENT  
FOR THE TRI-CITY WATER POLLUTION CONTROL PLANT  
BLOWER UPGRADE PROJECT**

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WHEREAS, the parties entered into that certain Agreement to Furnish Professional Consulting Services dated April 21, 2015 to assist the Districts with the design and development of bid documents to replace the existing blowers that serve the Conventional Activated Sludge System and the Microbiological Reactor treatment process systems (the “Agreement”); and

WHEREAS, the parties desire to continue and extend the services to accommodate unplanned and necessary work to modify the design and specifications based on changes to the project.

NOW, THEREFORE, for good and sufficient consideration, the parties hereby agree that:

1. To reflect an increase in total compensation by \$77,840.00, the Agreement’s, paragraph 5.1.1 is hereby replaced in its entirety with:

5.1.1 The DISTRICTS agree to pay the CONTRACTOR on a time and materials basis with a not-to-exceed amount equal to TWO HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED FORTY 00/100 dollars (**\$227,840.00**) (the “Maximum Amount”) for services billed monthly. Notwithstanding anything else to the contrary herein, no changes in the Maximum Amount shall be made without prior written approval of the DISTRICTS.

2. To reflect the addition of unplanned and necessary work to modify the design and specifications based on changes to the project, Exhibits A and B are hereby supplemented with the following:

Exhibit A (Amended) and Exhibit B (Amended) attached hereto and incorporated therein.

3. To reflect the changes in state tax law, the following section is inserted in Article 3 – Consultant’s Responsibilities:

**3.6 Compliance with Tax Law**

3.6.1 The CONTRACTOR shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work under this Contract. CONTRACTOR must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of CONTRACTOR’S warranty, in this Contract that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle DISTRICT to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;

- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to DISTRICT setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. DISTRICT shall be entitled to recover any and all damages suffered as the result of CONTRACTOR'S breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and DISTRICTS may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

3.6.2 The CONTRACTOR represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- a. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- b. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, to CONTRACTOR'S property, operations, receipts, or income, or to CONTRACTOR'S performance of or compensation for any work performed by CONTRACTOR;
- c. Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, or to goods, services, or property, whether tangible or intangible, provided by CONTRACTOR; and
- d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions

4. The DISTRICTS and the CONTRACTOR ratify the remainder of the Agreement and affirm that no other changes are made hereby.

In witness thereof, the parties execute this Amendment No. 1 as of the date set forth above.

MWH AMERICAS, INC.  
806 SW BROADWAY, STE 200  
PORTLAND, OREGON 97123

CLACKAMAS COUNTY BOARD OF COUNTY  
COMMISSIONERS Acting as the Governing Body  
of the TRI-CITY SERVICE DISTRICT by:

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Federal Tax ID Number

CLACKAMAS COUNTY BOARD OF COUNTY  
COMMISSIONERS Acting as the Governing Body  
of CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recording Secretary



Gregory L. Geist  
Director

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Construction Contract between the  
Tri-City Service District and Boede Construction, Inc.  
for the Willamette Interceptor Manhole Rehab Project

<b>Purpose/Outcomes</b>	Rehabilitate manholes along Willamette Interceptor that are seriously degraded from 30 years of exposure to sanitary sewer forcemain hydrogen sulfide.
<b>Dollar Amount and Fiscal Impact</b>	Funds for construction services are budgeted in the FY 2015-2016 and FY 2016-2017 budget. This construction agreement is for \$195,106.00.
<b>Funding Source</b>	Tri-City Service District FY 2015-2016 and FY 2016-2017 annual budgets. No General Funds involved.
<b>Duration</b>	Completion anticipated July 2016.
<b>Previous Board Action/Review</b>	Identified as "Renewal & Replacement" in the Fiscal Year budget approved by Board of County Commissioners on June 25, 2015, Resolution # 2015-75.
<b>Strategic Plan Alignment</b>	1. This project supports the WES Strategic Plan to provide reliable conveyance systems and WES customers will continue to benefit from a well-managed utility. 2. This supports the County Strategic Plan by helping to ensure a strong infrastructure and by helping to ensure a safe, healthy community.
<b>Contact Person</b>	Dewayne Kliewer, PE, Project Manager – WES 503-793-7291
<b>Contract No.</b>	P202183

**BACKGROUND:**

The Willamette Interceptor was constructed in the mid 1980's and receives flow from the Willamette Pump Station via the Willamette forcemain. Over the last 30 plus years there has been an extensive amount of degradation and corrosion in the concrete manholes, especially just downstream of forcemains, due to hydrogen sulfide (H<sub>2</sub>S) levels common to sanitary wastewater. This project will remove the degraded concrete from 23 manholes and apply a protective epoxy coating to the manhole interior—protecting it from further H<sub>2</sub>S damage.

On April 20, 2016, the District, through Purchasing, publicly advertised an Invitation to Bid to provide these construction services. A mandatory prebid on April 26, 2016 was attended by six (6) contractors. Bids were publicly opened on May 12, 2016, and the single bid received from Boede Construction, Inc. was determined to be the lowest responsive qualified firm to complete this work for their bid of \$195,106.00. It was also confirmed that Boede Construction, Inc. is eligible to perform public works projects in the State of Oregon.

This contract has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

TCSD staff recommend the Board of County Commissioners of Clackamas County, acting as the governing body of the Tri-City Service District, approve the Construction Contract between the Tri-City Service District and Boede Construction, Inc. for the Willamette Interceptor Manhole Rehab Project for an amount not to exceed \$195,106.00.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services

Placed on the \_\_\_\_\_ agenda by Purchasing.

## AGREEMENT

THIS AGREEMENT is dated as of the \_\_\_\_ day of \_\_\_\_\_ in the year 2016 by and between Tri-City Service District (hereinafter called DISTRICT) and **Boede Construction, Inc.** (hereinafter called CONTRACTOR).

DISTRICT and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### Article 1. WORK

1.1 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

#### **WILLAMETTE INTERCEPTOR MANHOLE REHAB PROJECT**

### Article 2. THE PROJECT

The Project for which the Work is described in the Contract Documents.

### Article 3. ENGINEER

3.1 The term Engineer is defined in the Supplementary Conditions.

3.2 Engineer is to act as DISTRICT's representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

### Article 4. CONTRACT TIMES

4.1 All time limits for milestones, if any, substantial completion, and completion and readiness for final payment are stated in the Contract Documents and are of the essence of the Contract.

4.2 The CONTRACTOR shall commence work within 10 calendar days after receipt of written Notice-to-Proceed. CONTRACTOR shall substantially complete the Work within 40 calendar days from Notice to Proceed, and the Work shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions 15 days later. The written notice to proceed will be forwarded to the CONTRACTOR after the CONTRACTOR submits the signed Agreement, Performance Bond and Payment Bond, and Certificate of Insurance to the DISTRICT and these documents have been approved as to form by the DISTRICT's attorney, signed by the DISTRICT.

4.3 CONTRACTOR and DISTRICT recognize that time is of the essence of this Agreement and that DISTRICT will suffer financial loss if the Work is not completed



within the times specified in Paragraph 4.2 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by DISTRICT if the Work is not completed on time.

Accordingly, instead of requiring any such proof, DISTRICT and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay DISTRICT five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.2 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 4.2 above for completion and readiness for final payment or any proper extension thereof granted by DISTRICT, CONTRACTOR shall pay DISTRICT five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.2 above for completion and readiness for final payment, plus any fees or penalties imposed by regulators for other violations.

## Article 5. CONTRACT PRICE

5.1 DISTRICT shall pay CONTRACTOR for completion of the Work in accordance with Contract Documents an amount in funds equal to the sum of the amounts determined pursuant to the paragraphs below:

Unless changes and alterations in the Plans, quantities or details of construction materially change the character of the work to be performed or the unit costs thereof, the CONTRACTOR shall accept as payment in full, so far as contract items are concerned, payment at the same unit prices as are provided under the Contract for the accepted quantities of work done.

If, however, changes and alterations in the Plans, quantities or details of construction materially change the character of work or unit costs thereof, compensation for such work will be made on such basis as may be agreed upon in advance of performance of work, or in case no such basis has been agreed upon, then an allowance may be made, either for or against the CONTRACTOR. Payment will be made at unit prices only for work actually performed or materials actually furnished according to actual measurement. If the amount of any major work item changes by more than 25%, compensation for all work that differs from the original estimated quantities for that work item may be made on such basis as may be agreed to in advance of performance of work, or in case no such basis has been agreed upon, an allowance may be made, either for or against the CONTRACTOR in such amount as the Engineer determines is fair and equitable. For the purpose of this Section, a major work item is defined as an item that constitutes at least 10% of the total contract bid amount based on either the estimated original quantities or the actual quantities and CONTRACTOR's original Bid prices.

If the Contract is done on a lump sum basis, the adjustment for increases or decreases may be based, at the sole discretion of the Engineer, on a theoretical unit price. This price will be determined by dividing the CONTRACTOR's applicable breakdown

category price by the estimated quantities of all units of work within the applicable breakdown category.

Bidder must include in their Bid prices the entire cost of the work set forth in the Bid.

The Contract Price is the total price stated in CONTRACTOR's Bid, attached hereto as an exhibit.

#### Article 6. PREVAILING WAGE RATES

6.1 CONTRACTOR agrees that the provisions required by ORS 279C.830 pertaining to CONTRACTOR's payment of prevailing wage rates shall be included as part of this Agreement. Each worker in each trade or occupation employed in the performance of the contract either by the CONTRACTOR, subcontractor or other person doing or contracting for whole or any part of the work on this contract, shall be paid not less than the applicable prevailing wage in effect for this contract.

#### Article 7. PAYMENT PROCEDURES

##### 7.1 Progress Payments and Retainage

- A. Payment for all work under the Contract will be made at the price or prices bid, and those prices shall include full compensation for all incidental work.
- B. If the Contract is for a public work and the Contract price is \$50,000.00 or more, supply and file, and require every Subcontractor to supply and file, with the DISTRICT and with the Wage and Hour Division, Bureau of Labor and Industries, 1400 S.W. Fifth Avenue, Portland, Oregon 97201, a statement in writing that conforms to the requirements of ORS 279C.854. The schedule for submitting payroll information is as follows: Once before the first payment and once before the final payment is made; in addition, for projects exceeding ninety (90) days for completion, submissions are to be made at ninety (90) day intervals.
- C. Make progress estimate of work performed in any calendar month and submit to the Engineer for approval by the 5<sup>th</sup> day of the following month. These estimates shall include value of labor performed and materials incorporated in the work since commencing work under the Contract. Such estimates need not be made by strict measurements and may be approximate only, and shall be based upon the whole amount of money that will become due according to terms of the Contract when Project has been completed.
- D. If the Contract price is determined, in whole or in part, on a Lump Sum basis, prepare an itemized cost breakdown relating thereto and have the Engineer approve in accordance with Division 1 requirements; progress estimates based on said itemized cost breakdown may be the basis for progress

payments. Upon direction by the Engineer provide for revision of the costs breakdown to reflect the true costs of the work as it progresses.

- E. If the Contract price is determined wholly on a unit basis, Engineer may use Unit Prices bid in making progress estimates on the work. In case said Unit Prices do not, in the opinion of the Engineer, truly represent actual relative costs of different parts of work, a percentage of the Unit Price may be used in making progress estimate adjustments.
- F. If the DISTRICT receives written notice of any unsettled claims for damages or other costs due to CONTRACTOR's operations including, without limitation, claims from any County Department or other governmental agency, an amount equal to the claim may be withheld from the progress or final payments until such claim has been resolved to the satisfaction of Engineer.
- G. Progress payments will be made by DISTRICT on a monthly basis within thirty (30) days after receipt of the CONTRACTOR's estimate of work performed, or 15 days after the payment is approved by the Engineer, whichever is the earlier date. Negotiable warrants will be issued by DISTRICT for the amount of the approved estimate, less five percent (5%) retainage. Such amount of retainage shall be withheld and retained by DISTRICT until it is included in and paid to CONTRACTOR as part of the final payment of the Contract amount. Securities in lieu of retainage will be accepted, or if CONTRACTOR elects, retainage as accumulated will be deposited by DISTRICT in an interest-bearing account pursuant to ORS Chapter 279 for progress payments. After fifty percent (50%) of the Work under Contract is completed, and the Work is progressing satisfactorily, the DISTRICT may elect to eliminate further retainage on any remaining monthly Contract payments. Said elimination or reduction of retainage shall be allowed only upon written application by the CONTRACTOR, which application shall include written approval of the CONTRACTOR's Surety.
- H. The Engineer may decline to approve an application for payment and may withhold such approval if, in the Engineer's opinion, the work has not progressed to the point indicated by the CONTRACTOR's submittal in paragraph C above. The Engineer may also decline to approve an application for payment or may reduce said payment or, because of subsequently discovered evidence or subsequent inspections, he may nullify the whole or any part of any payment previously made to such extent as may be necessary in his opinion to protect the DISTRICT from loss because of: (1) defective work not remedied, (2) third party claims filed or failure of the CONTRACTOR to make payments properly to Subcontractors for labor, materials or equipment, unless Surety consents to such payment, (3) reasonable doubt that the Work can be completed for the unpaid balance of the Contract sum, (4) damage to another CONTRACTOR's work, (5)

reasonable indication that the Work will not be completed within the Contract time (6) unsatisfactory prosecution of the Work by the CONTRACTOR, (7) claims against the CONTRACTOR by the DISTRICT, (8) failure of CONTRACTOR to submit updated project schedules as specified.

When the above grounds are removed, payment shall be made for amounts withheld because of them. Withholding of progress payments or partial payments under the criteria set forth above shall not entitle the CONTRACTOR to interest on such withheld payments or partial payments.

- I. If CONTRACTOR fails to complete the Project within the time limit fixed in the Contract or any extension, no further estimate may be accepted or progress or other payments allowed until the Project is completed, unless approved otherwise by DISTRICT.
- J. Progress estimates are for the sole purpose of determining progress payments and are not to be relied on for any other purpose. The making of a progress payment shall not be construed as an acceptance of any of the work or materials under the Contract.
- K. When the progress estimate indicates that the progress payment would be less than one thousand dollars (\$1000), no progress payment will be made for that estimate period, unless approved by the Engineer.
- L. CONTRACTOR is required to provide the DISTRICT with a list of CONTRACTOR's personnel who are authorized to personally receive contract payments. This written authorization must be signed by an officer of the Contracting company and will be placed on file in the DISTRICT's office. No payment will be released to an unauthorized person.

## 7.2 Final Estimate and Final Payment

- A. Pursuant to ORS Chapter 279C, notify the Engineer in writing when work is considered complete and Engineer shall, within fifteen (15) days after receiving notice, make a final inspection and either accept the work or notify CONTRACTOR of work yet to be performed on the Contract. If accepted, Engineer shall so notify CONTRACTOR, and will make a final estimate and prepare a Certificate of Completion recommending acceptance of the Work as of a certain date.
- B. If the CONTRACTOR believes the quantities and amounts specified in the final estimate and Certificate of Completion prepared by the Engineer to be incorrect, CONTRACTOR shall submit to the Engineer within fifteen (15) days of mailing of the Engineer's final estimate and Certificate of Completion to the CONTRACTOR's last known address as shown in the records of the DISTRICT, an itemized statement of any and all claims for additional

compensation under the Contract which are based on differences in measurements or errors of computation. Any such claim not so submitted and supported by an itemized statement within said fifteen (15) day period is expressly waived and the DISTRICT shall not be obligated to pay the same. Nothing contained herein shall limit the requirements of Standard General Conditions; Section 00700, Subsection 10.05, *Claims*.

- C. Upon receipt of the executed Certificate of Completion from the CONTRACTOR, and approval by the Engineer, the Engineer will process the final payment.
- D. Provided CONTRACTOR submits a claim in the manner and time as required in B. above, the Engineer, as soon as practicable, will consider and investigate the claim or claims of the CONTRACTOR for compensation earned under the Contract and not included in the Engineer's final estimate and Certificate of Completion. The Engineer will then promptly advise the CONTRACTOR of acceptance or rejection of the claim in full or part. If the Engineer allows the CONTRACTOR's claims in full or in part, Engineer will prepare a revised final estimate and Certificate of Completion, including all such items allowed and will submit the same to the CONTRACTOR.
- E. The CONTRACTOR shall execute and return the revised Certificate of Completion within five (5) days of its receipt together with notice of his acceptance or rejection of the amount there stated as being full compensation earned under the Contract.
- F. If the Engineer rejects the claim or claims, he will issue written notice of rejection mailed to the CONTRACTOR's last known address as shown in the records of the DISTRICT.
- G. The CONTRACTOR shall commence any suit or action to collect or enforce the claim or claims for any additional compensation arising from differences in measurements or errors of computation in the final estimate within a period of one (1) year following the original mailing of the Engineer's final estimate and Certificate of Completion to the CONTRACTOR's last known address as shown in the records of the DISTRICT. The Engineer's issuance of a revised final estimate pursuant to this subsection does not alter the original final estimate date. If said suit, action or proceeding is not commenced in said one (1) year period, the final estimate and Certificate of Completion or revised final estimate and Certificate of Completion, if revisions are made, shall be conclusive with respect to the amount earned by the CONTRACTOR, and the CONTRACTOR expressly waives any and all claims for compensation and any and all causes of suit or action for the enforcement thereof that he might have had.

- H. Upon return of the fully executed Certificate of Completion from the CONTRACTOR, the Engineer will submit the Certificate of Completion and final estimate to the DISTRICT for approval. Upon approval and acceptance by the DISTRICT, CONTRACTOR will be paid a total payment equal to the amount due under the Contract including retainage.
- I. Monies earned by the CONTRACTOR are not due and payable until the procedures set forth in these Specifications for inspection, approval and acceptance of the Work, for determination of the work done and the amount due therefor, for the preparation of the final estimate and Certificate of Completion processing the same for payment, for consideration of the CONTRACTOR's claim, or claims, if any, and for the preparing of a revised final estimate and Certificate of Completion and processing same for payment have been carried out.
- J. Non-resident CONTRACTOR will provide DISTRICT with evidence that provisions of ORS Chapter 279A.120 have been satisfied; this is a prerequisite to final payment.
- K. Execute and deliver to DISTRICT, in form approved by the Attorney, a receipt for all amounts paid or payable to CONTRACTOR under the Contract, and a release and waiver of all claims against DISTRICT arising out of or relating to the Contract and furnish satisfactory evidence that all amounts due for labor, materials and other obligations under the Contract have been fully and finally settled or are fully covered by the Performance and Payment Bond and or insurance protecting DISTRICT, its officers, agents and employees as well as CONTRACTOR. This is a condition of final payment and CONTRACTOR will not be entitled to final payment on release of retainage nor interest thereon until execution and delivery of said Receipt, Release & Waiver.
- L. If DISTRICT declares a default of the Contract, and Surety completes said Contract, all payments after declaration of default and retainages held by DISTRICT shall be paid to Surety and not to CONTRACTOR in accordance with terms of the Contract.
- M. Acceptance by CONTRACTOR of final payment shall release DISTRICT and Engineer from any and all claims by CONTRACTOR whether known or unknown, arising out of and relating to the Work. No payment, however, final or otherwise shall operate to release CONTRACTOR or his Sureties from warranties or other obligations required in the performance of the Contract.

## Article 8. CONTRACT DOCUMENTS

### 8.1 Contents

- A. The Contract Documents which comprise the entire agreement between DISTRICT and CONTRACTOR concerning the Work consist of the following:
1. This Agreement
  2. Performance Bond
  3. Payment Bond
  4. General Conditions
  5. Supplementary Conditions
  6. Specifications as listed in Table of Contents (Appendices and Plans) of the Contract Documents, to also include the prevailing wage rates for Public Works Contracts in Oregon.
  7. Drawings and/or Plans consisting of a cover sheet and sheets numbered 1 through 6 inclusive with each sheet bearing the following general title:  
***Willamette Interceptor manhole Rehab Project***
  8. Exhibits to this Agreement (enumerated as follows):
    - a. Addenda number(s)   1   to be included as Exhibit 1.
    - b. Bid Proposal, Bid Schedule of prices
    - c. Bid Bond
    - d. First-Tier Subcontractor Disclosure Form
  9. The following which may be delivered or issued on or after the effective Date of the Agreement and are not attached hereto:
    - a. Notice to Proceed.
    - b. Written Amendments.
    - c. Work Change Directives.
    - d. Change Order(s).
- B. The documents listed in Paragraph 8.1.A are attached to this Agreement (except as expressly noted otherwise above).

## 8.2 Coordination of Contract Requirements

- A. In general, in the case of a conflict or discrepancy between sections of the Contract Documents, the most stringent requirement and/or the highest quality product (as determined solely by the Engineer) shall be incorporated into the Work. The drawings and specifications are intended to describe and provide for a complete Work. Any requirement in one is as binding as if stated in all. The CONTRACTOR shall provide any work or material clearly implied in the Contract Documents even if the Contract Documents do not mention it specifically, using best industry practices. If there is still

a conflict within the Contract Documents, it will be resolved in the sole judgment of the Engineer by the following order of precedence:

1. DISTRICT-CONTRACTOR Agreement
2. Addenda and/or Change Orders
3. Bid Form
4. Supplementary Conditions
5. General Conditions
6. Technical Specifications, Divisions 1 through 9 with Division 1 taking precedence over Divisions 2 through 9
7. Permits from other agencies as may be required by law.
8. Drawings
9. Bonds

Dimensions shown on the drawings or that can be computed shall take precedence over scaled dimensions. Notes on drawings shall take precedence over drawing details.

### 8.3 Conflict of Provisions

- A. In the event of any conflicting provisions or requirements between the component parts of his Contract, the component part having the lowest number, as established in Subsection 8.2 above, shall govern.

This shall in no way relieve the performance bond and public liability insurance of their respective and specific protection to the CONTRACTOR, provided, however, that such sequence control does not conflict with the intent of or harm the product in any way. In case of such conflict which would alter the intent of or harm the product, the requirement which, in the opinion of the Engineer, will result in the best product will govern. It is hereby agreed that the entire project shall be completed in accordance with the full intent of the Contract, regardless of conflicting statements, omissions, or errors. The intent of the drawings and Specifications is to outline and control the work in a manner necessary to result in the best completely finished product practicable, at a minimum cost, incorporating all items. Any omissions in the Plans and Specifications pertinent to the requirements of the specified bid items are unintentional. If such are found, the CONTRACTOR will be required to perform the work in a customary workmanlike manner to achieve the intent as stated above.

It shall be definitely understood that omissions of one or more of the Documents shall not be construed as conflicting provisions. Any requirement given in one Document shall be known to be binding as though it is repeated in all Documents alike. The intent of the Contract is to combine all requirements of all Documents into one.



Article 9. MISCELLANEOUS

- 9.1 Terms used in this Agreement will have the meaning indicated in the General Conditions, and as revised by Supplementary Conditions.
- 9.2 The Contractor shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the District, which may be granted or withheld in its sole and absolute discretion. The District may assign this Agreement at any time and shall provide the Consultant with notice of such assignment within thirty (30) days of such assignment.
- 9.3 DISTRICT and CONTRACTOR each binds itself, its partners, successors, assignees, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 9.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon DISTRICT and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 9.5 Two Year Maintenance and Warranty
- A. In addition to and not in lieu of any other warranties required under the Contract, make all necessary repairs and replacements to remedy, in a manner satisfactory to the DISTRICT and at no cost to DISTRICT, any and all defects, breaks, or failures of the Work occurring within two (2) years following the date of Acceptance of the Work due to faulty or inadequate materials or workmanship. Repair damage or disturbances to other improvements under, within, or adjacent to the Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of the CONTRACTOR in performing his duties and obligations under this Contract when such defects or damage occur within the warranty period. The two-year maintenance period required shall, with relation to such required repair, be extended two (2) years from the date of completion of such repair. Where equipment or systems are specified to have a longer warranty period, CONTRACTOR shall be bound to the longer warranty period for the specific equipment and/or systems.
- B. If CONTRACTOR, after written notice, fails within ten (10) days to proceed to comply with the terms of this section, DISTRICT may have the defects corrected, and CONTRACTOR and CONTRACTOR's Surety shall be liable for all expense incurred. In case of an emergency where, in the opinion of the DISTRICT, delay would cause serious loss or damage, repairs may be made without notice being given to CONTRACTOR and CONTRACTOR

or Surety shall pay the cost of repairs. Failure of the DISTRICT to act in case of an emergency shall not relieve CONTRACTOR or Surety from liability and payment of all such costs.

- C. As a means of providing surety during the maintenance period, the CONTRACTOR shall provide to the DISTRICT written and legally attested proof of surety in the amount of not less than 10 percent of the final contract amount. The maintenance guarantee shall be one of the following types:
1. Continuance of the contract performance bond at the original or a reduced amount.
  2. Maintenance bond in a format and with the conditions acceptable to the DISTRICT.
  3. Cash deposit to the DISTRICT's Treasury, with a treasurer's receipt acting as proof of surety.
  4. Other arrangements, as may be proposed by the CONTRACTOR and accepted by the DISTRICT.

#### Article 10. GOVERNING LAW

10.1 It is expressly understood that this Agreement in all respects shall be governed by the laws of the State of Oregon and the ordinances of the Service District and Clackamas County.

#### Article 11. ASSIGNMENT OF ANTITRUST RIGHTS

- 11.1 By entering into this Agreement, the CONTRACTOR irrevocably assigns to DISTRICT any claim or cause of action which the CONTRACTOR now has or which may accrue in the future, including at DISTRICT's option, the right to control any such litigation, by reason of any violation of 15 USC Section 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the CONTRACTOR by any person which are used, in whole or in part, for the purpose of carrying out the CONTRACTOR's obligations under this Agreement.
- 11.2 CONTRACTOR shall require any subcontractor to irrevocably assign to the DISTRICT, as a third party beneficiary, any right, title or interest that has accrued or may accrue to the subcontractor by reason of any violation of 15 USC Section 1-15, ORS 646.725 or ORS 646.730, including, at the DISTRICT's option, the right to control any litigation arising thereunder, in connection with any goods or services provided to the subcontractor by any person, in whole or in part, for the purpose of carrying out the subcontractor's obligations as agreed to by the CONTRACTOR in pursuance of the completion of this Agreement.

- 11.3 In connection with this assignment, it is an express obligation of the CONTRACTOR that it shall take no action which any way diminishes the value of the rights conveyed or assigned hereunder to the DISTRICT. It is an express obligation of the CONTRACTOR to advise the DISTRICT's legal counsel:
- A. In advance of its intention to commence any action on its own behalf regarding such claims or causes of action;
  - B. Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action; and
  - C. The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignments to the DISTRICT.
- 11.4 Furthermore, it is understood or agreed that in the event that any payment under any such claim is made to the CONTRACTOR, it shall promptly pay over to the DISTRICT its proportionate share thereof, if any, assigned to the DISTRICT hereunder.

#### Article 12. RECORDS RETENTION

- 12.1 CONTRACTOR shall maintain all standard records and accounts as required by the Contract Documents throughout the life of the Agreement and for a period of three years after the termination of the Agreement.

#### Article 13. TAX LAWS

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

- 13.2 The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work under this Contract. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle District to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:
- A. Termination of this Contract, in whole or in part;
  - B. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to District's setoff right, without penalty; and
  - C. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. District shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and District may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their respectively authorized officers or representatives as of the day and year first above written.

Boede Construction, Inc.  
Company

6898 Sherman Road SE  
Address

Aumsville, OR 97325  
City, State, Zip

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name / Title (Printed)

\_\_\_\_\_  
Date

503-510-5561 / 503-749-1134  
Telephone Number / Fax Number

90583  
CCB License Number

68-0210725  
Federal Tax ID

364611-84  
\*Oregon Business Registry\*

DBC / OR  
Entity Type / State of Formation

CLACKAMAS COUNTY BOARD OF  
COUNTY COMMISSIONERS acting as  
the Governing Body of Tri-City Service  
District by:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel

\* Required if using an assumed business name, or if the business is a LLC, a LLP, a Corporation or other business type required by statute to be registered with the Oregon Secretary of State's office.