



# AGENDA

**Thursday, June 19, 2014 - 6:00 PM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2014-56

**I. CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

**I. HOUSING AUTHORITY CONSENT AGENDA**

- 1
- 2
1. Resolution No. 1905, Approving the Housing Authority Fiscal Year 2014-2015 Budgets
  2. In the Matter of Writing off Uncollectible Accounts for the Fourth Quarter of Fiscal Year 2014

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

- 3
1. State of the County Presentation (Gary Schmidt, Public and Government Affairs) - 30 minutes

**III. 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.)*

**IV. DISCUSSION ITEMS** *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

**~NO DISCUSSION ITEMS SCHEDULED**

**V. 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 Study Session. 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**

- 4
- 5
1. Approval for renewal of Revenue Intergovernmental Agreement with Clackamas County Community Corrections, to provide Behavioral Health Services to Community Corrections Consumers – *Health Centers*
  2. Approval of Amendment No. 3 to Professional, Technical, and Consultant Service Contract with Resource Connections of Oregon to provide Fiscal Intermediary Services for Persons with Developmental Disabilities – *Social Services*

Business Meeting Agenda – June 19, 2014

- 6 3. Approval of an Agency Service Agreement with Albertina Kerr Centers for Sub-Acute Psychiatric Services – Behavioral Health
- 7 4. Approval of a Subrecipient Grant Agreement with CODA, Inc. for the Housing Assistance Program – Behavioral Health
- 8 5. Approval of an Agency Service Agreement with Lori Olson, PMHNP for Outpatient Mental Health Services -- Behavioral Health

**B. Department of Transportation & Development**

- 9 1. Approval of a Contract with D & T Excavation, Inc. for the Barlow Road, Zimmerman Road Intersection Improvement Project - Purchasing

**C. Elected Officials**

- 10 1. Approval of Previous Business Meeting Minutes – BCC
- 11 2. Approval of an Intergovernmental Agreement with the City of Damascus to Provided Judicial Services through the Clackamas County Justice Court – Justice Court

**VI. DEVELOPMENT AGENCY**

- 12 1. Approval of Landlord Estoppel Certificate, Consent to Change in Ownership, and Waiver and Consent Forms for Oregon Iron Works, Inc.

**VII. WATER ENVIRONMENT SERVICES**

- 13 1. Approval of an Agreement between Clackamas County Service District No. 1 and JRT Mechanical, Inc for the Kellogg Creek WPCP Blower Building HVAC Improvement Project
- 14 2. Board Order No. \_\_\_\_\_ Approving the Transfer of Appropriations within Clackamas County Service District No. 1 2013-2014 Fiscal Year Budget
- 15 3. Board Order No. \_\_\_\_\_ Approving the Transfer of Appropriations for the Tri-City Service District 2013-2014 Fiscal Year Budget

**VIII. COUNTY ADMINISTRATOR UPDATE**

**IX. 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 by the following Saturday. 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)

COPY

Cindy Becker  
Director

June 19, 2014

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Resolution 1905 Approving the Housing Authority's FY 2014/2015 Budgets

<b>Purpose/Outcomes</b>	Approval of the Housing Authority's FY 2014/2015 Budgets: Agency-Wide Budget and Low Rent Public Housing Budget
<b>Dollar Amount and Fiscal Impact</b>	Total Agency Wide Budget: \$18,341,023 Public Housing Portion of the Budget: \$3,582,078
<b>Funding Source</b>	98% of this budget is from the U.S. Department of Housing and Urban Development (HUD)
<b>Safety Impact</b>	N/A
<b>Duration</b>	July 1st 2014- June 30th 2015
<b>Previous Board Action</b>	The previous Fiscal Year Housing Authority Budget was approved on June 20th, 2013 by the Housing Authority Board of Directors.
<b>Contact Person</b>	Chuck Robbins- Executive Director, Housing Authority 503-655-5666
<b>Contract No.</b>	N/A

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval of Resolution 1905 for its fiscal year (FY) 2014/2015 Public Housing Budget. HACC also requests approval of its FY 2014/2015 Agency-Wide Budget.

The Agency-Wide Budget includes 5 funding categories:

- Vouchers (Section 8 Housing Choice Voucher Program)
- Local Projects (affordable and special needs housing, not including low rent Public Housing)
- Central Office (Administration)
- Grants
- Low Rent Public Housing.

As required by the U.S. Department of Housing and Urban Development (HUD), the Low Rent Public Housing budget is allocated by project. These 5 projects are: Clackamas Heights, Oregon City View Manor, Scattered Sites, Hillside Park and Hillside Manor. HUD requires that the Low Rent Public Housing Budget be approved separately from the Agency-Wide Budget and that the approval include a Resolution and Board certification.

This budget reflects anticipated increases in HUD funding. These include: 5% increase in the Capital Fund, 10% increase in the Public Housing Operating subsidy, 15% increase in the Voucher program Administration Fee, and 5% increase in Voucher Housing Assistance Payments. Additionally, this budget also includes \$701,985 in Easton Ridge Development fees. The increases coupled with

decreases in Housing Authority staff have resulted in a budget that shows a positive balance of \$213,533.

The HACC 2014/2015 Agency-Wide budget and the Low Rent Public Housing Budget meet the requirements set forth in HUD's Financial Management Handbook for Public Housing Authorities.

**RECOMMENDATION:**

HACC recommends the approval of both Resolution 1905 adopting HACC's 2014/2015 Public Housing Budget; and the Agency-wide 2014/2015 Budget. Furthermore, HACC recommends approval for the Chair to sign HUD form 52574, Public Housing Authority Board Resolution Approving Operating Budget.

Respectfully submitted,



Cindy Becker  
Director

Attachments: FY 2014/2015 Agency-Wide Budget  
Resolution No. 1905  
FY 2014/2015 Low Rent Public Housing Budget  
HUD Form 52574



BEFORE THE BOARD OF COMMISSIONERS  
OF THE HOUSING AUTHORITY OF THE COUNTY OF CLACKAMAS, OREGON

In the Matter of Approving the Housing  
Authority's 2014/2015 Public Housing  
Operating Budget by Project

RESOLUTION NO. 1905

WHEREAS, the Housing Authority Board of  
Commissioners has reviewed the Public Housing Operating Budget by Project for Fiscal Year  
ending June 30, 2015 and

WHEREAS, they certify that all regulatory and statutory  
requirements have been met and that the Housing Authority has sufficient operating reserves to  
meet the working capital needs of its developments, that the budget expenditures are necessary in  
the efficient and economical operation of its housing for the purposes of serving low-income  
residents, and

WHEREAS, the budget indicates a source of funds  
adequate to cover all proposed expenditures, and

WHEREAS, the calculation of eligibility for federal  
funding is in accordance with the provisions of the regulations and that all proposed rental charges  
and expenditures will be consistent with provisions of the law, and

WHEREAS, the Housing Authority will comply with the  
wage requirements under 24 CFR 968.11 (e) or (f) or 24 CFR 905.120 (c) and (d), and

WHEREAS, the Housing Authority will comply with  
requirements for the reexamination of family income and composition,

NOW THEREFORE, BE IT RESOLVED that the Housing  
Authority of Clackamas County, Oregon Public Housing Operating Budget by Project is hereby  
approved for submittal to the U.S. Department of Housing and Urban Development.

DATED this 19<sup>th</sup> day of June, 2014

BOARD OF COMMISSIONERS OF THE HOUSING  
AUTHORITY OF CLACKAMAS COUNTY, OREGON

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

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

Housing Authority of Clackamas County  
Agency Wide  
Budget FY 2014/2015

	Low Rent Public Housing (3)	Vouchers	Local Projects	Central Office	Grants	Total	FY 2014 6/30/2014 Projected
<b>INCOME:</b>							
Dwelling rent	1,406,720		280,284			1,687,004	1,632,641
Vacancy loss (3%)	(42,202)		(7,084)			(49,286)	(47,667)
Other tenant income	79,664		14,657			94,321	99,786
Operating subsidy	1,889,926	1,111,654			98,381	3,099,961	2,743,810
Housing assistance payments		11,606,058				11,606,058	10,642,710
Mgmt fees			4,567	426,553		431,120	431,120
interest income	10,880	0	15,145	0		26,025	25,878
County contribution			90,960			90,960	90,960
Grant revenue	224,013		20,000	87,006	947,991	1,279,010	1,245,456
Other/Inkind	<u>13,077</u>	<u>39,780</u>	<u>0</u>	<u>0</u>	<u>22,993</u>	<u>75,850</u>	<u>101,216</u>
<b>TOTAL REVENUE</b>	<b><u>3,582,078</u></b>	<b><u>12,757,492</u></b>	<b><u>418,529</u></b>	<b><u>513,559</u></b>	<b><u>1,069,365</u></b>	<b><u>18,341,023</u></b>	<b>16,965,910</b>
<b>ADMINISTRATIVE EXPENSE:</b>							
Salaries	402,929	528,809	60,111	406,812	33,859	1,432,520	1,397,096
Employee benefits	247,326	342,362	35,094	233,218	20,866	878,866	841,158
Legal fees	6,115	3,054	284	547		10,000	35,001
Staff training/travel	6,558	3,971	368	2,103		13,000	16,999
Auditing fees	22,980	16,828	1,192	1,000		42,000	44,999
Other administrative expenses (2)	149,909	204,364	10,643	180,086		545,002	598,000
Management fee expense	<u>426,553</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>426,553</u>	<u>426,553</u>
<b>TOTAL ADMINISTRATIVE</b>	<b><u>1,262,370</u></b>	<b><u>1,099,388</u></b>	<b><u>107,692</u></b>	<b><u>823,766</u></b>	<b><u>54,725</u></b>	<b><u>3,347,941</u></b>	<b>3,359,806</b>
<b>TENANT SERVICES:</b>							
Salaries	39,309	72,373			39,981	151,663	179,199
Benefits	15,231	46,757			26,650	88,638	110,997
Other	<u>48,500</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>13,369</u>	<u>61,869</u>	<u>20,336</u>
<b>TOTAL TENANT SERVICES</b>	<b><u>103,040</u></b>	<b><u>119,130</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>80,000</u></b>	<b><u>302,170</u></b>	<b>310,532</b>
<b>UTILITIES:</b>							
Water	152,100		2,459		215	154,774	144,094
Sewer	339,861		6,591		816	347,268	285,358
Electricity	100,845		1,518	7,417	117	109,897	120,502
Gas	<u>37,951</u>	<u>0</u>	<u>33</u>	<u>2,149</u>	<u>0</u>	<u>40,133</u>	<u>44,581</u>
<b>TOTAL UTILITIES</b>	<b><u>630,757</u></b>	<b><u>0</u></b>	<b><u>10,601</u></b>	<b><u>9,566</u></b>	<b><u>1,148</u></b>	<b><u>652,072</u></b>	<b>594,535</b>
<b>MAINTENANCE:</b>							
Labor	551,127		31,364	7,790	1,000	591,281	584,244
Benefits	381,971		24,710	4,291	500	411,472	408,906
Materials	153,000		11,290	0	441	164,731	176,960
Garbage contracts	175,258		0	0	0	175,258	165,539
Other contracts	<u>183,448</u>	<u>0</u>	<u>50,037</u>	<u>4,606</u>	<u>15,600</u>	<u>253,691</u>	<u>258,871</u>
<b>TOTAL MAINTENANCE</b>	<b><u>1,444,804</u></b>	<b><u>0</u></b>	<b><u>117,401</u></b>	<b><u>16,687</u></b>	<b><u>17,541</u></b>	<b><u>1,596,433</u></b>	<b>1,594,520</b>
<b>GENERAL EXPENSES:</b>							
Insurance	104,499	8,780	9,849	4,871	0	127,999	113,405
Payment in Lieu of Taxes	70,837					70,837	70,837
Other/Extraord. Maint.	66,290	43,885	41,652		73,684	225,511	250,313
OPEB Accrual	<u>7,567</u>	<u>4,582</u>	<u>426</u>	<u>2,426</u>	<u>0</u>	<u>15,001</u>	<u>15,001</u>
<b>TOTAL GENERAL EXPENSES</b>	<b><u>249,193</u></b>	<b><u>57,247</u></b>	<b><u>51,927</u></b>	<b><u>7,297</u></b>	<b><u>73,684</u></b>	<b><u>439,348</u></b>	<b>449,556</b>
<b>OTHER EXPENSES:</b>							
Housing Assistance Payments		11,606,058			306,600	11,912,658	10,949,310
Mortgage Payments			43,184		0	43,184	43,184
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>535,667</u>	<u>535,667</u>	<u>511,491</u>

Housing Authority of Clackamas County  
Agency Wide  
Budget FY 2014/2015

	Low Rent Public Housing (3)	Vouchers	Local Projects	Central Office	Grants	Total	FY 2014 6/30/2014 Projected
TOTAL OTHER EXPENSES	<u>0</u>	<u>11,606,058</u>	<u>43,184</u>	<u>0</u>	<u>842,267</u>	<u>12,491,509</u>	<u>11,503,985</u>
TOTAL EXPENSES	<u>3,690,164</u>	<u>12,881,823</u>	<u>330,805</u>	<u>857,316</u>	<u>1,069,365</u>	<u>18,829,473</u>	<u>17,812,934</u>
OPERATING SURPLUS (DEFICIT)	<u>(108,086)</u>	<u>(124,331)</u>	<u>87,724</u>	<u>(343,757)</u>	<u>0</u>	<u>(488,450)</u>	<u>(847,024)</u>
Deferred Development Fee Cash				701,985		701,985	-
OPERATING SURPLUS (DEFICIT) AFTER CASH INFUSION	<u>(108,086)</u>	<u>(124,331)</u>	<u>87,724</u>	<u>358,228</u>	<u>0</u>	<u>213,535</u>	<u>(847,024)</u>
Estimated Unrestricted Cash							
Reserves at 06/30/2014	1,576,112 (1)	0	2,886,194	(13,346)	0	4,448,960	
Less fy 2015 Deficit	<u>(108,086)</u>	<u>(124,331)</u>	<u>87,724</u>	<u>358,228</u>		<u>213,535</u>	
Reserves at 6/30/2015	1,468,026	(124,331)	2,973,918	344,882		4,662,495	
Estimated Restricted Cash							
Reserves at 06/30/2015	3,196,174	0	0	0	0	3,196,174	
FTE's at 3/31/2014	20.0	11.5	1.5	5.0	1.0	39.0	

(1) Restricted to Public Housing Operations

(2) ie. phone, postage, office supplies, county allocations

(3) Low Rent Public Housing column is broken out by projects in the attached Public Housing Budget by Project

Housing Authority of Clackamas County  
Public Housing by Project  
Budget FY 2014/2015

	Clack Hghts	OCVM	Scattrd Sites	Hillsd Park	Hillsd Manor	Total
<b>INCOME:</b>						
Dwelling rent	218,150	180,338	466,930	238,482	302,820	1,406,720
Vacancy loss (3%)	(6,544)	(5,410)	(14,008)	(7,154)	(9,086)	(42,202)
Other tenant income	17,315	7,513	29,975	8,764	16,097	79,664
Operating subsidy	354,345	379,643	596,088	295,174	264,676	1,889,926
Interest income	1,898	1,840	3,590	1,745	1,807	10,880
Building rental income					13,077	13,077
Capital fund transfer	<u>40,994</u>	<u>40,994</u>	<u>60,035</u>	<u>40,994</u>	<u>40,996</u>	<u>224,013</u>
<b>TOTAL REVENUE</b>	<u>626,158</u>	<u>604,918</u>	<u>1,142,610</u>	<u>578,005</u>	<u>630,387</u>	<u>3,582,078</u>
<b>ADMINISTRATIVE EXPENSE:</b>						
Salaries	71,088	71,158	109,307	75,689	75,687	402,929
Employee benefits	44,484	44,534	68,526	44,891	44,891	247,326
Legal fees	1,119	1,119	1,639	1,119	1,119	6,115
Staff training/travel	1,235	1,236	1,935	1,076	1,076	6,558
Auditing fees	4,205	4,205	6,159	4,205	4,206	22,980
Other administrative expenses	27,784	27,807	40,694	26,812	26,812	149,909
Management fees	<u>78,091</u>	<u>78,091</u>	<u>114,189</u>	<u>78,091</u>	<u>78,091</u>	<u>426,553</u>
<b>TOTAL ADMINISTRATIVE</b>	<u>228,006</u>	<u>228,150</u>	<u>342,449</u>	<u>231,883</u>	<u>231,882</u>	<u>1,262,370</u>
<b>TENANT SERVICES:</b>						
Salaries	7,226	7,226	10,405	7,226	7,226	39,309
Benefits	2,800	2,800	4,032	2,800	2,799	15,231
Other	<u>10,000</u>	<u>10,000</u>	<u>8,500</u>	<u>10,000</u>	<u>10,000</u>	<u>48,500</u>
<b>TOTAL TENANT SERVICES</b>	<u>20,026</u>	<u>20,026</u>	<u>22,937</u>	<u>20,026</u>	<u>20,025</u>	<u>103,040</u>
<b>UTILITIES:</b>						
Water	32,292	34,264	51,247	22,279	12,018	152,100
Sewer	63,295	65,393	90,066	55,714	65,393	339,861
Electricity	12,057	6,173	2,272	5,609	74,734	100,845
Gas	<u>779</u>	<u>1,066</u>	<u>2,164</u>	<u>1,605</u>	<u>32,337</u>	<u>37,951</u>
<b>TOTAL UTILITIES</b>	<u>108,423</u>	<u>106,896</u>	<u>145,749</u>	<u>85,207</u>	<u>184,482</u>	<u>630,757</u>
<b>MAINTENANCE:</b>						
Labor	95,837	103,627	184,360	85,024	82,279	551,127
Benefits	63,187	67,478	141,400	56,795	53,111	381,971
Materials	31,518	23,868	50,949	30,294	16,371	153,000
Garbage contracts	37,870	29,787	65,596	31,782	10,223	175,258
Other contracts	<u>15,410</u>	<u>18,895</u>	<u>82,918</u>	<u>24,949</u>	<u>41,276</u>	<u>183,448</u>
<b>TOTAL MAINTENANCE</b>	<u>243,822</u>	<u>243,655</u>	<u>525,223</u>	<u>228,844</u>	<u>203,260</u>	<u>1,444,804</u>
<b>GENERAL EXPENSES:</b>						
Insurance	19,883	20,162	30,907	15,667	17,880	104,499
PILOT	9,450	8,758	24,420	15,190	13,019	70,837
Extraordinary Maintenance	0	0	0	0	0	0
Collection loss/other	12,403	11,293	14,705	13,000	14,889	66,290

Housing Authority of Clackamas County  
Public Housing by Project  
Budget FY 2014/2015

	<u>Clack Hghts</u>	<u>OCVM</u>	<u>Scattrd Sites</u>	<u>Hillsd Park</u>	<u>Hillsd Manor</u>	<u>Total</u>
OPEB accrual	<u>1,425</u>	<u>1,426</u>	<u>2,232</u>	<u>1,240</u>	<u>1,244</u>	<u>7,567</u>
TOTAL GENERAL EXPENSES	<u>43,161</u>	<u>41,639</u>	<u>72,264</u>	<u>45,097</u>	<u>47,032</u>	<u>249,193</u>
TOTAL EXPENSES	<u>643,438</u>	<u>640,366</u>	<u>1,108,622</u>	<u>611,057</u>	<u>686,681</u>	<u>3,690,164</u>
OPERATING SURPLUS(DEFICIT)	<u>(17,280)</u>	<u>(35,448)</u>	<u>33,988</u>	<u>(33,052)</u>	<u>(56,294)</u>	<u>(108,086)</u>

**PHA Board Resolution**  
Approving Operating Budget

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing -  
Real Estate Assessment Center (PIH-REAC)

OMB No. 2577-0026  
(exp. 04/30/2016)

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required by Section 6(c)(4) of the U.S. Housing Act of 1937. The information is the operating budget for the low-income public housing program and provides a summary of the proposed/budgeted receipts and expenditures, approval of budgeted receipts and expenditures, and justification of certain specified amounts. HUD reviews the information to determine if the operating plan adopted by the public housing agency (PHA) and the amounts are reasonable, and that the PHA is in compliance with procedures prescribed by HUD. Responses are required to obtain benefits. This information does not lend itself to confidentiality.

PHA Name: Housing Authority of Clackamas County PHA Code: OR 001

PHA Fiscal Year Beginning: July 1, 2014 Board Resolution Number: \_\_\_\_\_

Acting on behalf of the Board of Commissioners of the above-named PHA as its Chairperson, I make the following certifications and agreement to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

DATE

- Operating Budget for all projects approved by Board resolution on: June 19, 2014
- Operating Budget submitted to HUD, if applicable, on: \_\_\_\_\_
- Operating Budget revision approved by Board resolution on: \_\_\_\_\_
- Operating Budget revision submitted to HUD, if applicable, on: \_\_\_\_\_

I certify on behalf of the above-named PHA that:

1. All statutory and regulatory requirements have been met;
2. The PHA has sufficient operating reserves to meet the working capital needs of its developments;
3. Proposed budget expenditure are necessary in the efficient and economical operation of the housing for the purpose of serving low-income residents;
4. The budget indicates a source of funds adequate to cover all proposed expenditures;
5. The PHA will comply with the wage rate requirement under 24 CFR 968.110(c) and (f); and
6. The PHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i).

I hereby certify that all the information stated within, as well as any information provided in the accompaniment herewith, if applicable, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012.31, U.S.C. 3729 and 3802)

Print Board Chairperson's Name: <b>John Ludlow</b>	Signature: _____	Date: <b>June 19, 2014</b>
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**COPY**

Cindy Becker  
Director

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June 19, 2014

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

In the Matter of Writing off Uncollectible Accounts for the  
Fourth Quarter of Fiscal Year 2014

Purpose/Outcomes	Approval to write off uncollectible rents, late charges and maintenance expenses for the fourth quarter of fiscal year 2014.
Dollar Amount and Fiscal Impact	\$46,296.94 in total collection losses.
Funding Source	N/A
Safety Impact	N/A
Duration	(April 1, 2014 – June 30, 2014)
Previous Board Action	First, second, and third quarter collection losses were approved by the Housing Authority Board of Commissioners.
Contact Person	Chuck Robbins, Executive Director, Housing Authority 503-650-5666
Contract No.	N/A

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests the approval to write off uncollectible rents, late charges and maintenance expenses for the fourth quarter of fiscal year 2014 (April 1, 2014 – June 30, 2014). The uncollectible amounts are detailed on the attached worksheets.

Uncollectible amounts for the fourth quarter of fiscal year 2014 will be \$46,209.28 for Low Rent Public Housing and \$87.66 for Jannsen Road Apts. Of the total fourth quarter write offs, \$36,393.96 was for uncollected rents and \$9,902.98 was for maintenance repairs charged to tenants for repairs required to units before HACC could lease them to a new tenant.

This amount is much higher than is generally expected for quarterly losses. This is due to 2 very large write offs. The first, in the amount of \$18,405, is the result of fraud discovered by the Housing Authority. Working with the Oregon Department of Justice this individual was charged and eventually jailed for defrauding the Housing Authority, TANF and State DHS. In cases of fraud the amount owed is retroactive to the beginning of assistance. The second amount, \$14,886.60, is from one family. After numerous failed attempts to work out a payment schedule the Housing Authority was forced to proceed with eviction.

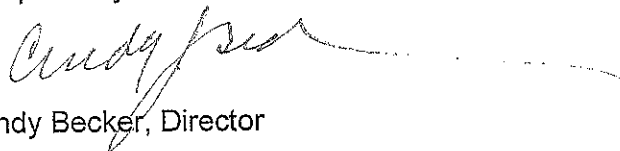
As a business practice, the HACC writes off debts after 90 days of collection efforts. Former residents in Public Housing that have debts that are written off continue to be tracked and are reported to a Federal Government database that prohibits their participation in any other Public Housing program nationally until such debt is paid.

The total amount proposed for transfer from Accounts Receivable to Collection Loss for the fourth Quarter of fiscal year 2014 will be \$46,296.94.

**RECOMMENDATION:**

HACC recommends the approval to write off uncollectible rents, late charges and maintenance expenses and for the Executive Director to be authorized to approve the transfer of these accounts from Accounts Receivable to Collection Loss.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cindy Becker", with a long horizontal flourish extending to the right.

Cindy Becker, Director



LRPH

Collection Loss for the period of

4/1/2014

to

6/30/2014

Fourth Quarter of Fiscal Year 2014

Unit #	SS #	Name	Rent	Sundry	Total
					\$ -
1025-7	xxx-xx-7569	Mandi Nitsos	562.97	1,609.34	\$ 2,172.31
1065-2	xxx-xx-7870	Matthew Flink	(269.86)	1,507.96	\$ 1,238.10
1066-6	xxx-xx-7746	Jamie Kessell	-	85.97	\$ 85.97
1096-3	xxx-xx-7423	Estate of Patricia Poyser	51.90	194.57	\$ 246.47
3016-2	CR1001915	Jennifer Alexander	18,405.00 RR	-	\$ 18,405.00
3025-6	xxx-xx-0286	Crystal Berry	293.30	229.47	\$ 522.77
3035-8	xxx-xx-9275	Carri Abrahamsz	207.36	2,237.21	\$ 2,444.57
3066-2	xxx-xx-6904	Mary Bowers	561.88	376.41	\$ 938.29
4028-4	xxx-xx-2822	Lindsay Viall	160.21	1,323.74	\$ 1,483.95
4028-4	xxx-xx-2822	Lindsay Viall	322.50 RR	-	\$ 322.50
4036-1	xxx-xx-2222	Genral Dupre	318.59	299.14	\$ 617.73
5202-2	xxx-xx-7052	Estate of Margaret Wilson	371.45	37.50	\$ 408.95
5608-3	xxx-xx-2988	Estate of Claudia Riedel	95.30	295.24	\$ 390.54
5803-3	xxx-xx-8589	Kathleen Stumph	186.76	259.49	\$ 446.25
5910-5	xxx-xx-5869	Diane Barry	-	54.29	\$ 54.29
12024-5	xxx-xx-1886	Megan and Dexteur LeSueur	9,659.60	460.86	\$ 10,120.46
12024-5	xxx-xx-1886	Megan and Dexteur LeSueur	5,229.00 RR	-	\$ 5,229.00
20009-2	xxx-xx-3764	Lori Brooks	238.00	844.13	\$ 1,082.13
					\$ -
<b>Total Write-off</b>			<b>36,393.96</b>	<b>9,815.32</b>	<b>46,209.28</b>

*Betty McKee*  
Accounting Specialist 1 - Betty McKee

*Richard A Cronk*  
Finance Manager - Rich Cronk

*Chuck Robbins*  
Executive Director - Chuck Robbins

JRA

Collection Loss for the period of

4/1/2014

to

6/30/2014

Fourth Quarter of Fiscal Year 2014

Unit #	SS #	Name	Rent	Sundry	Total
40007-11	xxx-xx-3843	Kristen Sparks	-	87.66	87.66
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
		<b>Total Write-off</b>	-	87.66	87.66

*Betty McKee*  
Accounting Specialist 1 - Betty McKee

*Richard Cronk*  
Finance Manager - Rich Cronk

*Chuck Robbins*  
Executive Director - Chuck Robbins



3

GARY SCHMIDT  
DIRECTOR

**PUBLIC AND GOVERNMENT AFFAIRS**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

June 19, 2014

Board of County Commissioners  
Clackamas County

Members of the Board:

**PRESENTATION: State of the County**

<b>Purpose/Outcomes</b>	This is the 2013-2014 State of the County update
<b>Fiscal Impact</b>	n/a
<b>Funding Source</b>	n/a
<b>Duration</b>	n/a
<b>Previous Action</b>	n/a
<b>Contact Person</b>	Gary Schmidt – Public and Government Affairs

**BACKGROUND**

The State of the County is an annual event where the Board of Commissioners share highlights of the past year and look forward to goals and priorities in the year ahead. Today's State of the County presentation will include a short video highlighting some of the outstanding County accomplishments during the past year and the resulting positive impacts to citizens, followed by remarks delivered by Chair John Ludlow.

This event is in a new format from prior years and is designed to more comprehensively present the County's accomplishments of the past year and lay out a vision for the future.

A list of all County department accomplishments, along with the video from today's State of the County presentation, will be posted on the county website following the meeting.

**RECOMMENDATION**

Staff recommends the Board of County Commissioners share the video and provide citizens with an update on the "State of the County."

Respectfully submitted,

Gary Schmidt  
Director, Public and Government Affairs

June 19, 2014

COPY

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval for renewal of Revenue Intergovernmental Agreement with  
Clackamas County Community Corrections, to provide  
Behavioral Health Services to Community Corrections Consumers

<b>Purpose/Outcomes</b>	Provide mental health and substance abuse consultation and treatment services to targeted consumers served by Community Corrections Residential Services
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value is \$407,271., and will be paid 1/12 <sup>th</sup> of total monthly of \$33,939.25
<b>Funding Source</b>	Revenue - No County General Funds are involved.
<b>Safety Impact</b>	None
<b>Duration</b>	Effective July 01, 2014 and terminates on June 30, 2015
<b>Previous Board Action</b>	The Board previously viewed this contract on July 26, 2012 – agenda item 072612-A3, September 26, 2013 agenda item 092613-A7, and December 5, 2013 agenda item 120513-A4
<b>Contact Person</b>	Tracy Garell, Behavioral Health Clinic Manager – 503-723-4803
<b>Contract No.</b>	6780

**BACKGROUND:**

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of an Intra-Agency Agreement with Clackamas County Community Corrections to provide behavioral health services to Community Corrections' consumers. Clackamas County Community Corrections purchases Residential Psychiatric Services, and Medication Evaluations from Health Centers Behavioral Health Clinics.

This agreement allows Clackamas County Health Centers Behavioral Health Clinics to provide mental health and substance abuse consultation and treatment services to targeted consumers served by Community Corrections' Residential Services.

This is a renewal agreement. The contract maximum is \$407,271. The agreement is effective July 1, 2014 and expires June 30, 2015.

**RECOMMENDATION:**

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

Respectfully submitted,



Cindy Becker, Director

**INTRA-AGENCY AGREEMENT**  
**BETWEEN**  
**CLACKAMAS COUNTY**  
**HEALTH, HOUSING, AND HUMAN SERVICES DEPARTMENT**  
**HEALTH CENTERS DIVISION**  
**AND**  
**CLACKAMAS COUNTY**  
**COMMUNITY CORRECTIONS**

Contract #6780

**I. PURPOSE**

This agreement between allows **Clackamas County Community Corrections**, herein referred to as CCCC, and **Clackamas County Health Centers Division**, herein referred to as CCHCD, to work together to provide substance abuse and mental health services to targeted clients within Corrections' Residential Services Division. The parties agree that it is appropriate to develop guidelines for their working relationship and for services to be provided.

**II. SCOPE OF WORK AND COOPERATION**

A. CCCC will:

1. Prioritize clients to receive service prior to referral. This prioritization will be coordinated through the CCCC liaison staff member who will monitor both the type and the flow of referrals.
2. Provide referral forms on each client to include a signed consent to release information at the same time the referral is made.
3. Provide accessibility of CCCC staff to the designated CCHCD liaison and CCHCD staff providing treatment services.
4. Provide assistance with personnel selection for CCCC/CCHCD services as requested.
5. Provide appropriate clinical office space for individual and group treatment services provided at CCCC facilities.

B. CCHCD will:

1. Provide timely written feedback using standard forms developed mutually by the parties on all CCCC clients involved with CCHCD.
2. Through CCHCD Crisis Program staff, provide crisis consultation to CCCC staff regarding clients at risk of hospitalization due to psychiatric crises. CCCC staff should initiate contact with CCHCD and provide relevant information. During regular office hours (7 am to 7 pm Monday through Friday), services will be accessed by calling 503-722-6200 and requesting the on-call adult crisis staff person. After 7 pm and on weekends and holidays, services will be accessed through the CCHCD crisis line by calling 503-655-8585.
3. Provide counseling to adults with mental or emotional problems through the Adult Outpatient Program (contact 503-655-8401). Clients will be rated as to severity of their problems and their coverage for mental health services and will be seen based on acuity and as resources permit. These referrals to be coordinated through CCHCD staff assigned to the two CCCC divisions.
4. CCHCD will ensure services are provided under the terms of this contract as scheduled except on County holidays or when staff providing services listed in item # 6 below are absent on leaves approved by CCHCD.
5. CCHCD staff stationed off site will be released for monthly Addictions Treatment Program staff meetings on a rotating basis.

## Community Corrections / Health Centers Division

Intra-Agency Agreement - #6780

Page 2

6. The following are specific services to be provided:

a. **Residential Services – Residential CSAP**

With funds available from CCCC Residential Services, provide agency consultation services and substance abuse group treatment. Services will be delivered on site by 3.8 Mental Health Specialists (125.5 hours per week).

b. **Residential Services – MED**

With funds available from CCCC Residential Services, provide consultation services at Residential Services by a Mental Health Specialist (up to 3 hours per week). Referrals will be scheduled by Residential Services.

c. **Residential Services – IDP**

With funds available from Residential Services, provide agency consultation services and substance abuse, outpatient group treatment for 26 adult male and female offenders. Services will be delivered by a Mental Health Specialist (26.5 hours per week).

d. **Psychiatric Services/Medication Evaluations**

With funds available from CCCC, needed emergency psychiatric services/medication evaluations falling outside the scope of this contract as defined above will be available at \$140.94 per hour for psychiatrist time or nurse practitioner time. CCCC will access these emergency services via a referral process established jointly by CCHCD and CCCC.

e. **Training – CCHCD Required Training**

Annual training provided to retain certifications for the three full-time contracted CCHCD staff. No cost to CCCC.

f. **Clinical Supervision**

With funds available from CCCC clinical supervision of addiction treatment will be provided by program supervisor.

### III. COMPENSATION

- A. CCCC agrees to pay CCHCD an amount not to exceed \$407,271.00 for the services described in Section II.B. above except for the services described in Sections II.B.6.d. and e. The services described in Section II.B.6.d. shall be billed by CCHCD to CCCC on a fee for service basis outside of and in addition to the **\$407,271.00** contract base. CCCC will pay CCHCD at rates specified in III.B.2. below for all services described in Section II.B.6.d. not to exceed **\$6,000**. The training described in Section II.B.6.e. is provided at no cost to CCCC.
- B. Periodic payments from CCCC will be made to CCHCD on the basis of requests for payment submitted as follows:
1. CCHCD will bill Residential Services for true and verifiable expenses for hours worked to perform the work and services outlined in this contract. Monthly payments should not exceed **\$33,939.25**.
  2. Bill Residential Services and Field Services **\$140.94 per hour** for psychiatrist time or nurse practitioner time **\$104.70 per hour** for Mental Health Specialists (Individual Therapy), and **\$47.73 per hour** for Group Therapy not to exceed **\$6,000** as utilized under Section II.B.6.d. above.
  3. Revenue received through June 30, 2015 from **recovered IDP and Phase IV CSAP** insurance billings will be reimbursed to CCCC.

**Community Corrections / Health Centers Division**

Intra-Agency Agreement - #6780

Page 3

CCHCD will submit a payment request by the 25<sup>th</sup> of the month following service. CCHCD line items have been established in the CCCC budget for this purpose.

**IV. LIAISON RESPONSIBILITY**

CCCC will assign a liaison for the programs. CCHCD will assign a liaison from CCHCD for the program. Clinical supervision will be provided by CCHCD's Alcohol and Drug Program supervisory staff. Questions or concerns shall be resolved between the referring CCCC Residential Services and Field Services staff and the CCHCD therapist, whenever possible. Unresolved issues or concerns shall be referred to the respective liaisons as primary program contacts responsible for implementation of this agreement.

**V. REVIEW**

The designated liaison will conduct an informal assessment quarterly, or as needed, to determine the level of service delivery. Significant changes in the level of service may be cause for liaison staff to recommend that this agreement be amended as provided for below in Section VII.

**VI. CONFIDENTIALITY**

CCCC's confidentiality policy No. 214 will be the basis for release of information from CCCC's files; the CCHCD Policy and Procedures on confidentiality of records will be the basis for release of information which is of a confidential nature will be safeguarded and not made available to unauthorized persons, and each party will uphold other contracted agreements concerning confidentiality pursuant to state and federal statutes.

Both CCCC and CCHCD will comply with all applicable provision of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, and 45 CFR Parts 160-164.

**VII. AMENDMENTS**

This agreement may be amended at any time with the concurrence of both parties. Amendments are effective only after signature by all persons signing this agreement.

**VIII. TERM OF AGREEMENT**

- A. This agreement is effective **July 1, 2014** and expires **June 30, 2015**.
- B. This agreement is subject to termination by either party on 30 days' notice to the other.

**HEALTH CENTERS DIVISION**

\_\_\_\_\_  
Richard Swift, Interim Director


\_\_\_\_\_  
Date

**COMMUNITY CORRECTIONS DEPARTMENT**

**HEALTH, HOUSING, AND HUMAN SERVICES DEPARTMENT**

  
\_\_\_\_\_  
Chris Hoy, Director

\_\_\_\_\_  
Cindy Becker, Director

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

COPY

Cindy Becker  
Director

June 19, 2014

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Amendment No. 3 to Professional, Technical, and Consultant  
Service Contract with Resource Connections of Oregon to provide Fiscal Intermediary  
Services for Persons with Developmental Disabilities

<b>Purpose/Outcomes</b>	The contractor will serve as the fiscal intermediary for individuals with developmental disabilities, by paying payroll and associated payroll taxes for in-home support services that have been prior approved.
<b>Dollar Amount and Fiscal Impact</b>	This amendment increases the contract budget based on the increased number of clients who have opted to use the services of the contractor. The contract maximum is increased by \$500,000 to a revised total of \$1,750,000.
<b>Funding Source</b>	The contract is funded through the Intergovernmental Agreement for the financing of Community Developmental Disability Services with the Oregon Department of Human Services – Office of Developmental Disabilities Services. No County General Funds are involved.
<b>Safety Impact</b>	None
<b>Duration</b>	The amendment is effective upon signature and continues through December 31, 2014.
<b>Previous Board Action</b>	The original contract was approved by the Board of County Commissioners on June 27, 2013 - agenda item 062713-A14
<b>Contact Person</b>	Brenda Durbin, Social Services Division – (503) 655-8641
<b>Contract No.</b>	6273

**BACKGROUND:**

The Social Services Division of the Health, Housing, & Human Services department requests the approval of a contract amendment with Resource Connections of Oregon for fiscal intermediary services for clients with developmental disabilities. The Oregon Department of Human Services, Office of Developmental Disabilities Services (DHS – ODDS) provides funding for Comprehensive In-Home Support Services for Adults and Children, and Family Support Services for Children. The contractor will act as a fiscal intermediary for one or more individuals with Developmental Disabilities, by paying payroll, associated payroll taxes and any other fees for services that have been approved under the clients' service support plan.

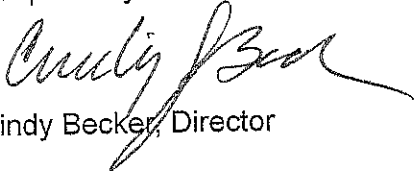
Amendment No. 3 increases the contract budget based on the increased number of clients who have opted to use the services of the contractor to pay for personalized fiscal intermediary support. The contract maximum is increased by \$500,000 to a revised total of \$1,750,000. Services required under the terms of this contract shall be extended for an additional 6 months. This contract shall terminate on December 31, 2014, instead of June 30, 2014. This contract has been reviewed and approved by County Counsel.



**RECOMMENDATION:**

Staff recommends the Board approval of this Contract Amendment and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cindy Becker". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Cindy Becker, Director

Contract Amendment  
Department of Human Services

DHS Contract Number 6273 Board Order Number 062713-A14  
And Date June 27, 2013  
Division Social Services Amendment No. 3  
Contractor Resource Connections of Oregon  
Amendment Requested By Brenda Durbin, Director

Changes:  Scope of Services  Contract Budget  
 Contract Time  Other \_\_\_\_\_

Justification for Amendment:

The contractor serves as a fiscal intermediary for individuals with developmental disabilities, by paying payroll and any related payroll taxes for services that have been prior approved by the Developmental Disability Services Program. While the nature of the services has not changed, the scope, based on the number of clients served, has expanded. This amendment increases the contract budget based on the increased number of clients who have opted to use the services of the contractor to pay for personalized fiscal intermediary support. The contract maximum is increased by \$500,000 to a revised total of \$1,750,000.00. Services required under the terms of this contract shall be extended for an additional 6 months. This contract shall terminate on December 31, 2014, instead of June 30, 2014. This contract is fully funded by the state Department of Human Services, Office of Seniors and People with Disabilities. There are no County General funds involved in this amendment or the underlying contract.

AMEND:

II. COMPENSATION AND RECORDS

- A. Compensation: COUNTY shall compensate CONTRACTOR for satisfactorily performing the services identified in Section I at a rate as follows:

CONTRACTOR shall be paid a fee as described in the fee schedule in Attachment 1 for each individual for whom CONTRACTOR has acted as fiscal intermediary for the month or partial month. CONTRACTOR's administrative fee is included in the contract total specified immediately below.

The total payment to CONTRACTOR shall not exceed \$ 1,250,000.

The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services.

TO READ:

- A. Compensation: COUNTY shall compensate CONTRACTOR for satisfactorily performing the services identified in Section I at a rate as follows:

CONTRACTOR shall be paid a fee as described in the fee schedule in Attachment 1 for each individual for whom CONTRACTOR has acted as fiscal intermediary for the month or partial month. CONTRACTOR's administrative fee is included in the contract total specified immediately below.

Resource Connections of Oregon  
PROFESSIONAL, TECHNICAL AND CONSULTANT SERVICE CONTRACT  
Amendment # 3  
Page 2

The total payment to CONTRACTOR shall not exceed \$ 1,750,000.

The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services.

AMEND:

I. SCOPE OF SERVICES

B. Services required under the terms of this contract shall commence on July 1, 2013. This contract shall terminate on June 30, 2014.

TO READ:

I. SCOPE OF SERVICES

B. Services required under the terms of this contract shall commence on July 1, 2013. This contract shall terminate on December 31, 2014.

This amendment is effective when it has been executed by both parties.

All other terms and conditions of the original contract and any prior amendments remain in full force and effect.

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

RESOURCE CONNECTIONS OF OREGON

CLACKAMAS COUNTY


Commissioner: John Ludlow, Chair

Commissioner: Jim Bernard

Commissioner: Paul Savas

Commissioner: Martha Schrader

Commissioner: Tootie Smith

By:   
Adam Ayers, Executive Director  
6/3/14

Signing on Behalf of the Board:

Date 1775 32nd Pl. NE, Suite A  
3876 Beverly Street NE, Suite G-1

Street Address  
Salem, Oregon 97005 97301

Cindy Becker, Director  
Department of Health, Housing and Human Services

City/State/Zip  
(503) 485-2510 / (503) 485-2515

Phone Number / Fax  
93-1280907

Date

Contractor's Federal I.D. #

June 19, 2014

Board of Commissioners  
 Clackamas County

Members of the Board:

Approval of an Agency Service Agreement with  
 Albertina Kerr Centers for  
Sub-Acute Psychiatric Services

<b>Purpose/Outcomes</b>	To provide sub-acute psychiatric services for people who are Oregon Health Plan (OHP) members capitated to Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	The contract does not contain an upper limit; expenditures are controlled by Behavioral Health Division staff who pre-authorize and monitor services on an on-going basis.
<b>Funding Source</b>	Oregon Health Authority - no County General Funds are involved.
<b>Safety Impact</b>	None
<b>Duration</b>	Effective July 1, 2014 and terminates on June 30, 2015
<b>Previous Board Action</b>	The previous agreement was approved by the Board of County Commissioners on December 20, 2012 - agenda item 122012-A2
<b>Contact Person</b>	Jill Archer, Director – Behavioral Health Division - 742-5336
<b>Contract No.</b>	6740

**BACKGROUND:**

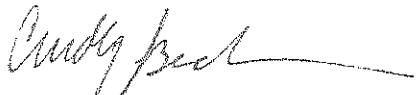
The Behavioral Health Division of the Health, Housing & Human Services Department request the approval of an Agency Service Agreement with Albertina Kerr Centers for Sub-Acute Psychiatric Services. Sub-acute psychiatric services are provided to children in a secure setting to assess, evaluate, stabilize or resolve the symptoms of an acute episode that occurred as the result of a diagnosed mental health condition. The Behavioral Health Division has partnered with Albertina Kerr Centers for behavioral health services since 2005. This contract is a continuation of these services.

The contract is effective July 1, 2014 and continues through June 30, 2015. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Cindy Becker, Director

# AGENCY SERVICE CONTRACT

Contract # 6740

This Agency Service Contract is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY," and **ALBERTINA KERR CENTERS**, hereinafter called "AGENCY." Throughout this contract and all exhibits, the term "DEPARTMENT" shall refer to and mean the State of Oregon, Oregon Health Authority.

## CONTRACT

### 1.0 Engagement

COUNTY hereby engages AGENCY to provide sub-acute psychiatric services for children as more fully described in Exhibit C, Scope of Work, attached hereto and incorporated herein.

### 2.0 Term

Services provided under the terms of this contract shall commence on **July 1, 2014** and shall terminate **June 30, 2015** unless terminated by one or both parties as provided for in paragraph 6.0 below.

### 3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate AGENCY as specified in Exhibit D, Compensation. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this contract, should AGENCY fail to submit required 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, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until AGENCY submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

3.3 Financial Records. AGENCY and its subcontractors shall maintain complete and legible financial records pertaining in whole or in part to this contract. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines. Financial records and supporting documents shall be retained for at least six (6) years or such period as may be required by applicable law, following final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, AGENCY shall repay the amount of the excess to COUNTY.

3.4 Access to Records and Facilities. COUNTY, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of AGENCY that are directly related to this contract, the funds paid to AGENCY hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, and transcripts. In addition, AGENCY shall permit authorized representatives of COUNTY and DEPARTMENT to perform site reviews of all services delivered by AGENCY hereunder.

3.4.1 AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with

Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this agreement available to COUNTY upon request.

3.4.2 COUNTY conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this agreement. AGENCY agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of AGENCY which are pertinent to this agreement to ensure appropriate expenditure of funds under this agreement. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

3.4.3 AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy, the independence rules contained within Governmental Auditing Standards (1994 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.

3.4.4 AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.

#### **4.0 Manner of Performance**

##### **4.1 Compliance with Applicable Laws and Regulations and Special Federal Requirements.**

AGENCY shall comply with all Federal, State, local laws, rules, and regulations applicable to the work to be performed under this contract, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit B, paragraph 9. Compliance with Applicable Law, attached hereto and incorporated herein by this reference. AGENCY shall comply with Oregon Administrative Rule (OAR) 410-120-1380, which establishes the requirements for compliance with Section 4751 of Omnibus Budget Reconciliation Act (OBRA) 1991 and ORS 127-649, Patient Self-Determination Act.

4.2 Precedence. A requirement listed both in the main boilerplate of this contract and in an exhibit, the exhibit shall take precedence.

4.3 Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.

4.4 Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of COUNTY, State, or Federal Government as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

#### **5.0 General Conditions**

5.1 Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend 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 actions, suits, claims or demand attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents, and employees, in performance of this contract.

AGENCY shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of AGENCY, or its agents or employees under this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

5.2 Insurance. During the term of this agreement, AGENCY shall maintain in force, at its own expense, each insurance noted below:

5.2.1 Commercial General Liability

Required by COUNTY  Not required by COUNTY

AGENCY shall obtain, at AGENCY'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 \$2,000,000 per occurrence/\$4,000,000 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 it.

5.2.2 Commercial Automobile Liability

Required by COUNTY  Not required by COUNTY

AGENCY shall also obtain at AGENCY's expense, and keep in effect during the term of the Agreement, "Symbol 1" 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 \$2,000,000.

5.2.3 Professional Liability

Required by COUNTY  Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$2,000,000 combined single limit per occurrence/\$4,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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.

5.2.4 Tail Coverage. If 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 AGENCY's insurer will provide "tail" coverage as subscribed, 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 its retroactive date is on or before the effective date of this contract.

5.2.5 Additional Insured Provisions. The insurance, other than the professional liability insurance, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its commissioners, agents, officers, and employees" as an additional insured.

5.2.6 Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

5.2.7 Insurance Carrier Rating. Coverages provided by AGENCY 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.

5.2.8 Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to COUNTY. No contract 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 this contract have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

5.2.9 Primary Coverage Clarification. AGENCY's coverage will be primary in the event of a loss.

5.2.10 Cross Liability Clause. A cross-liability or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.

5.3 Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.

5.4 Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.

5.5 Severability. If any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this contract shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support of the activity contracted herein except as set forth in this contract.

5.8 Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.

5.9 Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:

5.9.1 AGENCY shall:

- a. Make payments promptly, as due, to all persons supplying to AGENCY 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 agency or subcontractor incurred in performance of this contract.
- c. Not permit any lien or claim to be filed or prosecuted against COUNTY on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.

5.9.3 No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:

- a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work weeks five consecutive days, Monday through Friday;
- b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

5.9.4 AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.5 As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, copartnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.

5.9.6 Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

5.10 Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.

5.11 Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.

5.12 Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

## **6.0 Termination**

6.1 Termination Without Cause. This contract may be terminated by mutual consent of both parties, or by either party, upon ninety (90) days' notice, in writing or delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this contract effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 Terms of the HealthShare Risk Accepting Entity Agreement are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.

6.2.2 The termination, suspension or expiration of the HealthShare Risk Accepting Entity Agreement.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.

6.2.4 COUNTY has evidence that AGENCY has endangered or is endangering the health or safety of clients, staff or the public. AGENCY shall ensure the orderly and reasonable transfer of care in progress with consumers and shall work with COUNTY staff to accomplish the same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of AGENCY, or the lapse relinquishment, suspension, expiration, cancellation or termination of AGENCY's insurance as required in this contract.

6.2.6 AGENCY's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage AGENCY's affairs, or the judicial declaration that AGENCY is insolvent.

6.2.7 AGENCY fails to perform any of the other provisions of this contract, or fails to pursue the work of this contract in accordance with its terms, and after written notice from the COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.2.8 Debarment and Suspension. COUNTY shall not permit any person or entity to be an AGENCY if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. COUNTY shall require all AGENCYS with awards that exceed the simplified acquisition threshold to provide the required certification regarding their exclusion status and that of their principals prior to award.

6.3 Notice of Default. COUNTY may also issue a written notice of default (including breach of contract) to AGENCY and terminate the whole or any part of this contract if AGENCY substantially fails to perform the specific provisions of this contract. The rights and remedies of COUNTY related to default (including breach of contract) by AGENCY shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6.4 Transition. Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

AGENCY SERVICES AGREEMENT # 6740

Albertina Kerr Centers

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7.0 Notices

If to AGENCY:

Albertina Kerr Centers  
424 NE 22<sup>nd</sup> Avenue  
Portland, OR 97232

If to COUNTY:

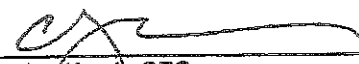
Clackamas County Behavioral Health Division  
Attention: Contract Administration  
2051 Kaen Road, # 367  
Oregon City, OR 97045

This contract consists of seven (7) sections plus the following exhibits and attachments which by this reference are incorporated herein:

- Exhibit A Definitions
- Exhibit B Statement of General Conditions
- Exhibit C Scopes of Work
- Exhibit D Compensation
- Attachment 1 DSN Provider Capacity Report

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

ALBERTINA KERR CENTERS

By:   
Christopher Krenk, CEO  
6/4/2014  
Date  
424 NW 22<sup>nd</sup> Avenue  
Street Address  
Portland, Oregon 97232  
City/State/Zip  
(503)239-8101 / (503)239-8106  
Phone / Fax

CLACKAMAS COUNTY

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

Signing on Behalf of the Board:

Cindy Becker, Director  
Health, Housing and Human Services Department

Date

**EXHIBIT A**

**DEFINITIONS**

Whenever used in this Agency Services Agreement, the following terms shall have the meanings set forth below:

AMH: State of Oregon, Department of Human Services, Addictions and Mental Health

AGENCY: entity contracted by COUNTY

Allowable Costs: costs described in OMB Circular A-87 except to the extent such costs are limited or excluded by other provisions of this contract

CCO: Coordinated Care Organization is an entity that has been certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care services

Community Outcome Management and Performance Accountability Support System (COMPASS): the AMH project to implement a new contracts system, roll out an optional free electronic health records systems (OWITS), and enhance the collection of data through MOTS

Contract: this Agency Services Contract between COUNTY and AGENCY for the provision of services

COUNTY: Clackamas County Behavioral Health Division

Covered Services: medically appropriate services specified in OAR 410-141-3120, "Operations and Provision of Health Services" and limited in accordance with OAR 410-141-3420, "Billing and Payment" for OHP Members. The term "Covered Services" may be expanded, limited, or otherwise changed pursuant to the Clackamas County Health Share of Oregon/Clackamas Participation Agreement and OARs. Covered Services may also refer to authorized services provided to uninsured, indigent clients.

DEPARTMENT: AMH contracts with COUNTY to establish and finance community mental health and addition programs; COUNTY, in turn, subcontracts certain services to AGENCY

DHS: Department of Human Services of the State of Oregon

Federal Funds: funds paid to AGENCY under this contract that are received from an agency, instrumentality or program of the Federal government of the United States

Health Share of Oregon: a Coordinated Care Organization serving Oregon Health Plan enrollees of Clackamas, Multnomah and Washington Counties.

Individual: an individual accessing publicly funded behavioral health services who is either an OHP Member or is determined eligible for services as an uninsured, indigent individual.

Mental Health Services: treatment services for individuals diagnosed with serious mental health illness, or other mental or emotional disturbance posing a danger to the health and safety of themselves or others

Medicaid: Federal funds received by OHA under the Title XIX of the Social Security Act and Children's Health Insurance Program Funds administered jointly with Title XIX funds as part of State medical assistance program by OHA

Misexpenditure: money, other than an overexpenditure disbursed to AGENCY by COUNTY under this agreement and expended by AGENCY that:

- (a) is identified by the Federal government as expended contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money, for which the Federal government has requested reimbursement by the State of Oregon and whether in the form of a Federal determination of improper use of Federal funds, a Federal notice of disallowance, or otherwise; or
- (b) is identified by the COUNTY, State of Oregon or OHA as expended in a manner other than that permitted by this agreement, including without limitation, any money expended by AGENCY, contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money; or
- (c) is identified by the COUNTY, State of Oregon or OHA as expended on the delivery of a service that did not meet the standards and requirements of this agreement with respect to that service

Measures and Outcomes Tracking System (MOTS): the AMH data system that stores client data submitted by AGENCY and/or COUNTY

OAR: Oregon Administrative Rules duly promulgated by the Oregon Health Authority and as amended from time to time.

OHA: the State of Oregon, acting by and through its Oregon Health Authority.

OHP Member: an individual found eligible by a division of the Oregon Department of Human Services to receive services under the OHP (Oregon Health Plan) Medicaid Demonstration Project or State Children's Health Insurance Program and who is enrolled with COUNTY as Health Share of Oregon/Clackamas.

Oregon Web Infrastructure for Treatment Services (OWITS): is 1) an optional free electronic health records system available to Counties and their Providers to submit the MOTS data, and 2) a system to manage the AMH services

Primary Source Verification: verification from the original source of a specific credential (education, training, licensure) to determine the accuracy of the qualifications of an individual health care practitioner. Examples of primary source verification include, but are not limited to, direct correspondence, telephone verification and internet verifications.

Third Party Resources: any individual, entity, or program that is, or may be, liable to pay all or part of the cost of any Covered Service furnished to an OHP Member, including but not limited to: private health insurance or group health plan; employment-related health insurance; medical support from absent parents; workers' compensation; Medicare; automobile liability insurance; other federal programs such as Veteran's Administration, Armed Forces Retirees and Dependent Act, Armed Forces Active Duty and Dependents Military Medical Benefits Act, and Medicare Parts A and B; another state's Title XIX, Title XXI or state-funded Medical Assistance Program; and personal estates.

Valid Claim: an invoice, in the form of a CMS 1500 claim form, submitted for payment of covered health services rendered to an eligible client that is submitted within the required 90 days from the date of service or discharge and that can be processed without obtaining additional information from the provider of the service or from a third party. A valid claim is synonymous with the federal definition of a clean claim as defined in 42 CFR 447.45(b).

**EXHIBIT B**

**STATEMENT OF GENERAL CONDITIONS**

**1. Interpretation and Administration of Agreement**

AGENCY acknowledges that this agreement between COUNTY and AGENCY is subject to the underlying Health Share of Oregon/Clackamas Risk Accepting Entity Participation Agreement between Health Share of Oregon and COUNTY, the Health Plan Services Contract between the Oregon Health Authority and Health Share of Oregon, the Oregon Revised Statutes concerning the Oregon Health Plan, and other applicable Oregon statutes and administrative rules concerning mental health services. If AGENCY believes that any provision of this agreement or COUNTY's interpretation thereof is in conflict with Federal and State statutes or regulations, AGENCY shall notify COUNTY in writing immediately.

AGENCY agrees to provide medically necessary services within the scope of its practice and license (hereinafter referred to as "services") to individuals assessed as having an eligible mental health condition specified in the Oregon Health Plan "Prioritized List of Mental Health Conditions", can benefit from those services, and as described below when authorized by COUNTY's treatment authorization process. AGENCY shall provide services in accordance with OAR 410-141-3120 "Operations and Provision of Health Services"; OAR 410-141-3420 "Billing and Payment"; and all DHS Rules in OAR Chapter 309 and any other administrative rules to which AGENCY is subject, as such rules may be amended from time to time. These laws, rules and regulations, are incorporated by reference herein to the extent that they are applicable to this agreement and required by law to be so incorporated. Services provided under this agreement are to be within the scope of AGENCY's licenses and certification, and the licenses, certifications and training of its employed and contracted staff providing direct services.

**2. General Performance Standards**

COUNTY shall monitor services provided by AGENCY and has the right to require AGENCY's compliance with OHA and Health Share of Oregon established standards and other performance requirements relative to the quantity and quality of service and care, access to care, and administrative and fiscal management, and with all obligations and conditions stated in this agreement. AGENCY will notify COUNTY immediately in writing regarding issues related to access to care or any other potential violation of the conditions stated in this agreement.

a. Licenses and Certifications

By signing this agreement, AGENCY assures that all licenses and certifications required by statute or administrative rule are and will remain current and valid for all of AGENCY's employees and independent contractors providing direct service and for all of AGENCY's facilities in which services are provided. AGENCY assures that it is certified under OAR 309-012-0130 – 309-012-0220 or licensed under ORS Chapter 443 by the State of Oregon to deliver specified services. AGENCY will promptly notify COUNTY of the initiation of any action against any licenses or, if applicable, against any certifications by any certifying boards or organizations as well as any changes in AGENCY's practice ownership or business address, along with any other problem or situation that may relate to the ability of AGENCY to carry out the duties and obligations of this contract.

b. Eligibility and Authorization of Services

AGENCY shall verify eligibility and enrollment of clients prior to providing and billing for service and obtain authorization for the provision of covered services as necessary and appropriate according to COUNTY policies and procedures. AGENCY shall participate in the COUNTY concurrent review process. AGENCY understands that authorization for services will be based upon this review process.

c. Quality Assurance and Utilization Review

AGENCY shall cooperate with, and participate in, COUNTY's quality assurance and utilization review programs. AGENCY shall also participate in Health Share of Oregon quality initiatives as developed. Further, AGENCY shall have a planned, systematic, and ongoing process for monitoring, evaluating and improving the quality and appropriateness of Covered Services provided to clients.

AGENCY shall work with COUNTY staff to ensure that authorized services provided by AGENCY to clients are the most appropriate and cost efficient, and least restrictive. AGENCY staff shall make records available to COUNTY staff on site upon reasonable notice for purposes of utilization review.

d. Contractual Compliance

AGENCY shall ensure that all providers and staff employed or contracted by AGENCY who provide services to clients or are otherwise engaged in activities under this agreement are fully aware of and in compliance with the terms and conditions of this agreement.

e. Provider Appeal Process

AGENCY shall have the right to appeal actions by COUNTY or decisions concerning interpretation of the Health Share of Oregon/Clackamas Risk Accepting Entity Agreement as they apply to this agreement. Appeals shall be made in writing.

Appeals related to administrative or clinical decisions and all other matters shall be made to COUNTY Administration within thirty (30) calendar days of the date of the action being appealed. A decision shall be issued within twenty-one (21) business days of receipt of the written appeal. An appeal of that decision can be made in writing to the Director of Clackamas County Behavioral Health Division within fourteen (14) business days of the date of the decision. The Director will issue a decision within twenty-one (21) business days, and that decision will be final.

**3. Clinical Standards**

a. Clinical Guidelines

AGENCY shall adopt clinical guidelines that inform mental health practitioners, clients, family members and advocates with evidence-based information about mental illness and appropriate treatment options. Clinical guidelines should be based on a systematic evaluation of research evidence; be designed to assist, rather than dictate, clinical decision-making; and are to be applied on a case-by-case basis. Such guidelines should provide recommendations for appropriate care based on scientific evidence and professional consensus; support for professional standards, quality improvement activities and education; and a basis for comparing current practice to evidence-based best practices. AGENCY shall make such guidelines available to COUNTY upon request.

b. Outcome Measure

AGENCY shall adopt the use of a measure of clinical outcomes that demonstrates a change in client status following an episode of treatment. The measurement tool adopted shall identify changes in symptoms, functioning, quality of life, adverse events or satisfaction. AGENCY shall make information about outcome measures used available to COUNTY upon request.

c. Coordination of Care

- (1) AGENCY shall develop, implement and participate in activities supportive of a continuum of care that integrates mental health, addiction and physical health interventions in ways that are seamless and whole to the client. Integration activities may span a continuum ranging from communication to coordination to co-management to co-location to the fully integrated, person-centered health care home.
- (2) To insure appropriate coordination of services to enrolled individuals, AGENCY shall collaborate with allied agencies in the local service area, including but not limited to primary care clinics, housing authorities, chemical dependency agencies, juvenile justice, school districts, and Department of Human Resources, Child Welfare programs. AGENCY will make every effort to obtain a signed Release of Information at the onset of treatment, notifying the service partner in writing of preliminary diagnosis and prescribed medications, notifying of any major changes or medical complications that occurred during the course of treatment and notifying upon termination of treatment.
- (2) AGENCY shall coordinate with COUNTY on referral of clients to specialty behavioral health services or to a higher intensity of service. Specifically:
  - (i) AGENCY shall coordinate with COUNTY on both admission and discharge of clients to psychiatric acute care or sub-acute psychiatric care. AGENCY shall coordinate with COUNTY and the acute or sub-acute care provider on discharge planning and the development of community resources to aid in the timely discharge and community placement of the client. AGENCY shall assure an appointment with an appropriate provider within seven (7) days of discharge from acute care, sub-acute care or psychiatric residential treatment care.
  - (ii) AGENCY shall coordinate with COUNTY on referral of clients to crisis respite services, particularly as those services are used to divert the admission of the client to acute care.
  - (iii) AGENCY shall refer clients for a Level of Service Intensity Determination Screening when a higher intensity of service appears warranted.
  - (iv) AGENCY shall coordinate with COUNTY to obtain Long Term Care Determination for appropriate clients.

d. Crisis Response

AGENCY will be responsible for twenty-four hour, seven days a week crisis response for their enrolled individuals. AGENCY shall establish and follow a system for appropriate and timely response to emergency needs of individuals. During the period of service, AGENCY shall respond to all enrolled client emergencies. "Emergency" shall mean the sudden onset of a mental health condition manifesting itself by acute symptoms and one or more of the following circumstances are present: (1) the client is in imminent or potential danger of harming himself or others as a result of an eligible condition; (2) the client shows symptoms, e.g., hallucinations, agitation, delusions, etc., resulting in impairment in judgment, functioning and/or impulse control severe enough to endanger his or her own welfare or that of another person; or (3) there is an



immediate need for Services as a result of, or in conjunction with, a very serious situation such as an overdose, detoxification, potential suicide or violence. AGENCY will have a system of crisis response to individuals enrolled in their program. At a minimum, AGENCY will have a clinician available by phone for consultation at all times. This clinician shall be familiar with the case or shall have the ability to contact clinician(s) familiar with the case.

e. Standards of Care

COUNTY promotes resilience in and recovery of the clients it serves. COUNTY supports a system of care that promotes and sustains a client's recovery from a mental health condition by identifying and building upon the strengths and competencies within the person to assist them in achieving a meaningful life within their community. Consistent with these values, AGENCY shall:

- (1) Provide services in a manner that assures continuity and coordination of the health care services provided to each client;
- (2) Accept clients for treatment on the same basis that AGENCY accepts other clients and render services to clients in the same manner as provided to AGENCY's other clients. AGENCY shall not discriminate against clients because of source of payment, race, ethnicity, gender, gender identity, gender presentation, sexual orientation, national origin, ancestry, religion, creed, marital status, familial status, age, except when program eligibility is restricted to children, adults or older adults, source of income, disability and diagnosis;
- (3) Provide clients with access to services without undue delay and as soon as necessary in light of the member's mental health condition. AGENCY shall comply with access standards as set forth in OAR 410-141-3220 "Accessibility";
- (4) Conduct its practice and treat all clients using that degree of care, skill and diligence which is used by ordinarily careful providers in the same or similar circumstances in the provider's community or a similar community (see ORS 677.095);
- (5) Ensure that clients are served in the most normative, least restrictive, least intrusive and most cost effective level of care appropriate to their diagnosis and current symptoms, degree of impairment, level of functioning, treatment history, and extent of family and community supports;
- (6) Advise or advocate on behalf of clients in regard to treatment options, without restraint from COUNTY;
- (7) AGENCY shall employ a system of internal review to evaluate the care being provided within the agency, to modify service plans, adjust level of care being provided and consider duration of treatment. AGENCY will have a system of internal utilization management to assure that services are provided within the authorization maximum dollar amount, when applicable.
- (8) AGENCY shall have written policies and procedures that insure individuals receive a Notice of Action when service is denied, terminated, suspended or reduced without the client's agreement.
- (9) AGENCY shall have written policies and procedures related to consumer complaints as referenced in OAR 309-019-0125 and OAR 410-141-0260 through 410-141-0266.

#### 4. Encounter Submissions

a. Usual and Customary Charges

AGENCY shall bill COUNTY according to their Usual and Customary fee schedule. AGENCY shall base their Usual and Customary charges on a cost study that is updated annually.

b. Compensation

AGENCY shall be reimbursed at the COUNTY reimbursement rates in effect as of the date of service or billed charges, whichever is less.

c. Third Party Resources and Coordination of Benefits

AGENCY shall bill and collect from liable third party resources prior to billing COUNTY. If both the third party resource and COUNTY reimburse AGENCY for the same service, COUNTY shall be entitled to a refund for the exact amount of duplicate payment received by AGENCY.

AGENCY shall be responsible for maintaining records in such a manner so as to ensure that all moneys collected from third-party resources on behalf of clients may be identified and reported to COUNTY on an individual client basis. AGENCY shall make these records available for audit and review consistent with the provisions upon request.

If AGENCY has knowledge that a client has third-party health insurance or health benefits, or that either client or AGENCY is entitled to payment by a third party, AGENCY shall immediately so advise COUNTY.

Pursuant to OAR 410-141-3160, "Integration and Care Coordination", COUNTY reserves the right to coordinate benefits with other health plans, insurance carriers, and government agencies. COUNTY may release medical information to such other parties as necessary to accomplish the coordination of benefits in conformity with the Health Insurance Portability and Accountability Act (HIPAA) 45 CFR 164 and 42 CFR Part 2. Coordination of benefits shall not result in compensation in excess of the amount determined by this agreement, except where State laws or regulations require the contrary.

d. Encounter Data

AGENCY shall submit to COUNTY accurate and complete encounter data in the form of a CMS 1500 claim form for each contact with a client. To encounter data and receive payment, when applicable, AGENCY shall submit a CMS 1500 claim form to COUNTY's Third Party Administrator, Performance Health Technology Ltd (PH Tech). AGENCY shall use its best efforts to supply encounter data once a month, and shall in all cases, supply encounter data no later than 120 calendar days after a contact with a client in accordance with OAR 410-141-3420, "Billing and Payment". Each encounter claim shall include such information as required in the Health Share of Oregon/Clackamas Risk Accepting Entity Participation Agreement and meet specifications as a Valid Claim. AGENCY shall use the most current DSM Multi-Axial Classification System. DSM codes shall be reported at the highest level of specificity. Claims may be submitted to PH Tech in either paper or electronic format.

PH Tech shall pay AGENCY on behalf of COUNTY, by the 45<sup>th</sup> business day after a valid claim is received, fee-for-service payments as specified in section 1 above. COUNTY shall have no obligation to make payment to AGENCY if AGENCY fails to obtain a valid authorization to provide services, fails to verify eligibility for Covered Services and the individual is not an eligible client on the date of service, if the services provided are not Covered Services, or if AGENCY fails to submit fee-for-service bills within 90 calendar days of the date of service. The timely filing

requirement is extended to 12 months when there is a Third Party Resource as the primary payor and to 12 months when Medicare is primary. To be considered for payment, claims resubmission requests submitted by AGENCY must be received by PH Tech within 120 days of the date of the first denial.

e. Non-Covered Services

AGENCY shall follow OAR 410-141-3420, "Billing and Payment", when submitting fee-for-service claims for services provided to OHP Members that are not Covered Services.

f. Payment in Full

Except as expressly provided below, payments to AGENCY made by COUNTY for services provided under the terms of this agreement shall constitute payment in full. OAR 410-141-3420, "Billing and Payment", AGENCY shall not bill, charge, seek compensation, remuneration or reimbursement from, or have any recourse against OHA or any client for services contracted hereunder, either during the term of this agreement or at any time later, even if COUNTY becomes insolvent. This provision shall not prohibit collection for non-covered services that may be the responsibility of the client or any permitted co-pays, co-insurance, deductibles or any other cost sharing, if any and as applicable. AGENCY may bill and collect separately for those costs which are lawfully the responsibility of the client. When combined with all sources of payment, COUNTY's payment to AGENCY shall not exceed the reimbursement amount in effect as of the date of service.

g. Overpayments

Any payments made by COUNTY to which AGENCY is not entitled under the terms of this agreement shall be considered an overpayment and shall be refunded by AGENCY within thirty (30) calendar days of the discovery, in accordance with OAR-410-120-1280, "Billing" and OAR 410-120-1397, "Recovery of Overpayments to Providers – Recoupments and Refunds". AGENCY must not seek payment from clients for any covered services, except any coinsurance, co-payments, and deductibles expressly authorized by OAR-410-120 or OAR-410-141. A client cannot be billed for services or treatment that have been denied due to provider error (e.g. required documentation not submitted, prior authorization not obtained, non-covered diagnosis, etc.).

## 5. Staff Standards

COUNTY delegates to AGENCY the credentialing and recredentialing of employed and contracted staff who provide services to clients under this agreement. Pursuant to OAR 410-141-3120 "Operations and Provision of Health Services", AGENCY must, at a minimum, obtain and verify documents that provide evidence of primary source verification of credentials as follows:

- Appropriate education and academic degrees, as required;
- Licenses or certificates, as required;
- Relevant work history or qualifications, as required;
- Completion of a successful criminal history records check through the Oregon Law Enforcement Data System and compliant with ORS chapter 181 and OAR 407-007-0000 through 407-007-0370;
- Positive clearance by the National Practitioner Data Bank, as required;

- Positive clearance through the General Services Administration System for Award Management (SAM) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General's List of Excluded Individuals/Entities at time of hire and monthly thereafter.

AGENCY shall not permit any person to provide services under this agreement if that person is listed on the non-procurement portion of the General Service Administration's SAM in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (2 CFR Part 180).

In addition, AGENCY shall not permit any person to provide services under this agreement who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 "Program Integrity – Medicare and State Health Care Programs Subpart B". AGENCY may not submit claims for services provided after the date of such exclusion, conviction or termination.

AGENCY assures that all AGENCY employees and independent contractors providing direct service under this agreement will work within the scope of their credentials and any applicable licensure or registration, or criteria for certification if not required to be licensed or registered pursuant to OAR 410-141-3120. AGENCY shall not allow services to be provided by an employee or independent contractor who does not have a valid license or certification required by state or federal law.

AGENCY ensures that all personnel providing services to clients under this agreement are properly trained and qualified to render the services they provide. AGENCY shall arrange for continuing education of personnel rendering services under this agreement as necessary to maintain such competence and satisfy all applicable licensing, certification or other regulatory requirements.

COUNTY reserves the right to review, upon reasonable notice and at AGENCY's site, the actual documents describing the credentials of AGENCY's employees and independent contractors for purposes of verification.

## 6. Recordkeeping

### a. Clinical Records. Access and Confidentiality

- (1) Clinical Records. AGENCY shall ensure maintenance of recordkeeping consistent with OAR 410-141-3180, "Record Keeping and Use of Health Information Technology." The clinical record shall fully document the mental condition of the client and the services received by the client under this agreement. All clinical records relevant to this agreement shall be retained for at least seven (7) years after the date of clinical services for which claims are made, encounters reported, final payment is made, or all pending matters are closed, whichever time period is longer. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the seven-year-period, the records must be retained until all issues arising out of the action are resolved or until the end of the seven-year-period, whichever is later.
- (2) Government Access to Records. At all reasonable times, AGENCY and its subcontractors shall provide the Center for Medicare and Medicaid Services (CMS), the Comptroller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice Medicaid Fraud Unit, Oregon Department of Human Services Office of Payment Accuracy and Recovery, OHA, COUNTY and all their duly authorized representatives the right of access to AGENCY's financial (including all accompanying billing records), clinical/medical, and personnel records that are directly pertinent to this agreement in order to monitor and

evaluate cost, performance, compliance, quality, appropriateness and timeliness of services provided, and the capacity of AGENCY to bear the risk of potential financial losses. These records shall be made available for the purpose of making audit, examination, excerpts and transcriptions. AGENCY shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit.

- (3) Confidentiality and Privacy of Records. The confidentiality of information concerning clients is subject to State and Federal guidelines, including but not limited to State (ORS 179.505 through 179.507, ORS 192.502, ORS 411.320, ORS 433.045(3)) and Federal (42 CFR Part 2, 42 CFR Part 431, Subpart F, 45 CFR 205.50) confidentiality laws and regulations. AGENCY and COUNTY shall not use, release, or disclose any information regarding a client for any purpose not directly connected with the administration of this agreement or under Title XIX of the Social Security Act, except with the written consent of the client or, if appropriate, the client's parent or guardian, or unless otherwise authorized by law. AGENCY shall ensure that its agents, employees, officers and subcontractors with access to client records understand and comply with this confidentiality provision.
- (4) Release of Information. AGENCY shall assure that COUNTY and any other cooperating health service providers have access to the applicable contents of the client's clinical record when necessary for use in the diagnosis or treatment of the client, to the extent such access is permitted by law. AGENCY shall release mental health service information requested by COUNTY or a provider involved in the care of a client within ten (10) business days of receiving a signed release. Except as provided in ORS 179.505(9), AGENCY shall provide the client or the client's legal guardian access to client's record and provide copies within ten (10) business days of any request for copies.
- (5) External Review. AGENCY shall cooperate with OHA by providing access to records and facilities for the purpose of an annual external, independent professional review of the quality outcomes and timeliness of, and access to, services under this agreement in accordance with 42 USC Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2); and 42 CFR 457.950(a)(3).
- (6) Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving OHP assistance and shall furnish such information to any State or federal agency responsible for administering the OHP program regarding any payments claimed by such person or institution for providing OHP Services as the State or federal agency may from time to time request. 42 USC Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2); and 42 CFR 457.950(a)(3).

b. Financial Records

- (1) AGENCY shall establish and maintain policies and procedures related to financial management and financial records consistent with Generally Accepted Accounting Principles. AGENCY shall make such policies and procedures available to COUNTY upon request.
- (2) AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this agreement available to COUNTY upon request.
- (3) COUNTY shall conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this agreement. AGENCY agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of AGENCY which are pertinent to this agreement to ensure appropriate expenditure of funds under this agreement. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

- (4) AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the Independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy OAR 801-030-0005, the independence rules contained within Governmental Auditing Standards (2011 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.
- (5) AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.
- (6) Limited Scope and Full Audits shall be completed within nine (9) months of the close of AGENCY's fiscal year. Audit reports, including the Management Letter associated with the audit shall be submitted to COUNTY within two weeks from the date of the report. Failure to submit required audit reports and Management Letters shall be cause for withholding of contract payment until audits are submitted.

## 7. Reporting

### a. Abuse Reporting

AGENCY shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if AGENCY were a mandatory abuse reporter. If AGENCY is not a mandatory reporter by statute, these reporting requirements shall apply during work hour only. AGENCY shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

### b. Behavioral Health Electronic Data System

AGENCY shall participate in the Oregon Health Authority (OHA)'s Enhanced Data Capture for all clients receiving Covered Services under this agreement. AGENCY shall submit all data to OHA via formats approved by OHA. AGENCY shall submit data in accordance with OHA timelines.

### c. Delivery System Network (DSN) Provider Capacity Report

AGENCY shall submit the DSN Provider Capacity report (see Attachment 1) to COUNTY in the prescribed format within thirty (30) days of the effective date of this agreement, identifying all staff and independent contractors who will provide services to clients under this agreement. In addition, the DSN Provider Capacity Report shall be updated and resubmitted monthly to COUNTY.

## 8. Monitoring

### a. Agreement Compliance Monitoring

COUNTY and OHA shall conduct agreement compliance and quality assurance monitoring related to this agreement. AGENCY shall cooperate with COUNTY and OHA in such monitoring.

COUNTY shall provide AGENCY twenty (20) business days written notice of any agreement compliance and quality assurance monitoring activity that requires any action or cooperation by AGENCY. Notice of monitoring shall include the date the monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

Should AGENCY found to be out of compliance with any requirement of this agreement, the following actions may be taken by COUNTY until the issue is resolved:

- Request a conference of the parties to determine the need for technical assistance
- Require a corrective action plan
- Disallow referral of new clients to AGENCY
- Put AGENCY on probationary status and suspend billing authority

Should the issue remain unresolved, COUNTY may consider AGENCY in breach and may terminate this agreement.

b. External Quality Review

AGENCY agrees to participate with COUNTY in any evaluation project or performance report as designed by COUNTY or applicable State or Federal agency. AGENCY shall make all information required by any such evaluation project or process available to COUNTY or COUNTY's designee within thirty (30) business days of request.

**9. Fraud and Abuse**

AGENCY shall comply with, and as indicated, cause all employees and subcontractors to comply with, the following requirements related to fraud and abuse. All elements of this Fraud and Abuse exhibit apply to services provided to uninsured, indigent individuals with the exception of reports to the Medicaid Fraud Control Unit (MFCU) which do not apply to indigent services.

a. General

- (1) AGENCY, its employees and subcontractors shall comply with all provisions of the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any Oregon laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in 42 USC 1320a-7b).
- (2) AGENCY, its employees and subcontractors shall comply with Oregon laws pertaining to false claims including the following: ORS 411.670 to 411.690 (submitting wrongful claim or payment prohibited; liability of person wrongfully receiving payment; amount of recovery); ORS 646.505 to 646.656 (unlawful trade practices); ORS chapter 162 (crimes related to perjury, false swearing and unsworn falsification); ORS chapter 164 (crimes related to theft); ORS chapter 165 (crimes involving fraud or deception), including but not limited to ORS 165.080 (falsification of business records) and ORS 165.690 to 165.698 (false claims for health care payments); ORS 659A.199 to 659A.224 (whistle blowing); OAR 410-120-1395 to 410-120-1510 (program integrity, sanctions, fraud and abuse); and common law claims founded in fraud, including Fraud, Money Paid by Mistake and Money Paid by False Pretenses.
- (3) AGENCY shall include information in its employee handbooks or other appropriate documents on laws described above, regarding the rights of employees to be protected as whistleblowers.

- (4) AGENCY shall further have policies and procedures for detecting and preventing fraud, waste and abuse that shall, at a minimum, include a process for monitoring and auditing files, claims and staff performance.
- (5) Entities receiving \$5 million or more annually (under this contract and any other OHP contract) 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 USC § 1396a(a)(68).
- (6) Certify when submitting any claim for the provision of OHP services that the information submitted is true, accurate and complete. AGENCY shall acknowledge AGENCY'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.

b. Fraudulent Billing and False Claims

- (1) AGENCY will report verified and suspected cases of fraud and abuse to the Medicaid Fraud Control Unit (MFCU) and COUNTY within five (5) business day of discovery.
- (2) If it is determined that services billed by AGENCY were fraudulently billed, or that a false claim was submitted, or that an instance of abuse has occurred, the following disciplinary actions may be taken by COUNTY:
  - If abuse is determined, consider restitution of funds based on the severity of the abuse identified.
  - If fraud is determined or a false claim verified, require restitution of funds.
  - If the action identified is determined to be non-intentional, require a corrective action plan
  - Put AGENCY on probationary status and suspend billing authority until the issue is resolved
  - Termination of this agreement
- (3) COUNTY shall promptly refer all verified cases of Medicaid fraud and abuse to the MFCU, consistent with the Memorandum of Understanding between the State of Oregon Department of Human Services and the MFCU. COUNTY shall also refer cases of suspected Medicaid fraud and abuse to the MFCU prior to verification.

(4) Participation of Suspended or Excluded Providers

AGENCY shall ensure that Covered Services may not be provided to clients by the following persons (or their affiliates as defined in the Federal Requisition Regulations):

- Persons who are currently suspended, debarred or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issues pursuant to Executive Order 12549 or under guidelines implementing such order; and
- Persons who are currently excluded from Medicaid participation under section 1128 or section 1128A of the Act; and



- Persons who are currently excluded from providing services under the Oregon Medical Assistance Program.

c. Examples of fraud and abuse that support referral to the MFCU and COUNTY

- (1) AGENCY who consistently demonstrates a pattern of intentionally reporting encounters or services that did not occur. A pattern would be evident in any case where 20% or more of sampled or audited services are not supported by documentation in the clinical records. This would include any suspected case where it appears that the provider knowingly or intentionally did not deliver the service or goods billed;
- (2) AGENCY who consistently demonstrates a pattern of intentionally reporting overstated or up coded levels of service. A pattern would be evident by 20% or more of sampled or audited services that are billed at a higher-level procedure code than is documented in the clinical records;
- (3) Any suspected case where the AGENCY intentionally or recklessly billed COUNTY more than the usual charge to non-Medicaid recipients or other insurance programs;
- (4) Any suspected case where the AGENCY purposefully altered, falsified, or destroyed clinical record documentation for the purpose of artificially inflating or obscuring his or her compliance rating or collecting Medicaid payments otherwise not due. This includes any deliberate misrepresentation or omission of fact that is material to the determination of benefits payable or services which are covered or should be rendered, including dates of service, charges or reimbursements from other sources, or the identity of the client or provider;
- (5) Providers who intentionally or recklessly make false statements about the credentials of persons rendering care to clients;
- (6) Providers who knowingly charge clients for services that are covered services or intentionally balance-bill a client the difference between the total fee-for-service charge and COUNTY's payment to the AGENCY, in violation of OHA rules.

d. Reporting suspected and verified cases of fraud or abuse

When a verified case of fraud or abuse exists, AGENCY will report the following information to the MFCU and COUNTY within five (5) business day of discovery of the suspected activity:

- Provider Name, Oregon Medicaid Provider Number, address and phone
- Type of provider
- Source and nature of complaint
- The approximate range of dollars involved
- The disposition of the complaint when known
- Number of complaints for the time period.

**Contact Information**

Report to: Medicaid Fraud Control Unit (MFCU)  
Phone: (971)673-1880  
Fax: (971)673-1890  
Address: 1515 SW 5th Ave., Suite 410, Portland, OR 97201

**Contact Information**

Report to: Clackamas Behavioral Health Division  
Contact: Compliance Policy Analyst  
Phone: (503)742-5335  
Fax: (503)742-5304  
Address: 2051 Kaen Road, Suite 367, Oregon City, OR 97045

**10. Compliance with Applicable Law**

AGENCY shall comply and, as indicated, cause all employees and subcontractors to comply with the following Federal requirements. 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.

a. Miscellaneous Federal Provisions

AGENCY shall comply and cause all subcontractors to comply with all federal laws, regulations and executive orders applicable to this Contract or to the delivery of Work. Without limiting the generality of the foregoing, AGENCY expressly agrees to comply and cause all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) 45 CFR Part 84 which implements Title V, 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 law governing operation of CMHPs, including without limitation, 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 this Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 USC 14402.

b. Equal Employment Opportunity

If this Contract, including amendments, is for more than \$10,000, then AGENCY shall comply and cause 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).

c. Non-Discrimination

- (1) AGENCY shall comply with all federal and State laws and regulations including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities) the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and all amendments to those acts and all regulations promulgated thereunder. AGENCY shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.
- (2) AGENCY shall comply with and cause its subcontractors to comply with the integration mandate in 28 CFR 35.130(d), Title II of the Americans with Disabilities Act and its implementing regulations published in the Code of Federal Regulations.

d. Advance Directives

AGENCY shall provide adult clients with written information on Advance Directive policies and include a description of Oregon law. The written information provided by AGENCY must reflect changes in Oregon law as soon as possible, but no later than 90 days after the effective date of any change to Oregon law. AGENCY must also provide written information to adult clients with respect to the following:

- (1) Their rights under Oregon law;
- (2) AGENCY's policies respecting the implementation of those rights, including a statement of any limitation regarding the implementation of Advance Directives as a matter of conscience.
- (3) AGENCY must inform clients that complaints concerning noncompliance with the Advance Directive requirements may be filed with OHA.

e. Drug Free Workplace

AGENCY shall maintain and cause all subcontractors to maintain a drug-free workplace and shall notify employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in AGENCY's workplace. AGENCY shall establish a drug-free awareness program and provide each employee to be engaged in the provision of services under this agreement with information about its drug-free workplace program. AGENCY will further comply with additional applicable provisions of the Health Share of Oregon Core Contract.

f. Clinical Laboratory Improvement

If applicable to Scope of Work, AGENCY shall and shall ensure that any Laboratories used by AGENCY shall comply with the Clinical Laboratory Improvement Amendments (CLIA 1988), 42 CFR Part 493 Laboratory Requirements and ORS 438 (Clinical Laboratories, which require that all laboratory testing sites providing services under this agreement shall have either a Clinical Laboratory Improvement Amendments (CLIA) certificate of waiver or a certificate of registration along with a CLIA identification number. Those Laboratories with certificates of waiver will provide only the eight types of tests permitted under the terms of their waiver. Laboratories with certificates of registration may perform a full range of laboratory tests.

g. Clean Air, Clean Water, EPA Regulations

If this agreement, including amendments, exceeds \$100,000 then AGENCY shall comply and cause 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 OHA, DHHS and the appropriate Regional Office of the Environmental Protection Agency. AGENCY shall include and cause all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

h. Energy Efficiency

AGENCY shall comply and cause 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).

i. Resource Conservation and Recovery

AGENCY shall comply and cause 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 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 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.

j. Audits

AGENCY shall comply and, if applicable, cause a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."

k. Truth in Lobbying

AGENCY certifies, to the best of the AGENCY's knowledge and belief that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of AGENCY, 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.
- (2) 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, AGENCY shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- (3) AGENCY shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- (4) This certification is a material representation of fact upon which reliance was placed when this Contract 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.

l. Conflict of Interest Safeguards

- (1) AGENCY and its subcontractors shall have in effect safeguards, including, but not limited to, policies and procedures against conflict of interest with any State of Oregon Department of Human Services employees or other agents of the State who have responsibilities relating to this agreement. These safeguards must be at least as effective as the safeguards specified in Section 27 of the Office of Federal Procurement Policy Act (41 USC 423) and must include

safeguards to avoid conflicts that could be prohibited under 18 USC 207 or 208 if the Department of Human Services employee or agent was an officer or employee of the United States Government. For purposes of implementing policies and procedures required in this section, AGENCY shall apply the definitions in the State Public Ethics Law as if they applied to AGENCY for "Actual conflict of interest," ORS 244.020(1), "potential conflict of interest," ORS 244.020(14), and "client of household," ORS 244.020(12).

- (2) AGENCY shall not offer to any DHS or OHA employee (or any relative or member of their household) any gift or gifts with an aggregate value in excess of \$50 during a calendar year or any gift of payment of expenses for entertainment. "Gift" for this purpose has the meaning defined in ORS 244.020(6) and OAR 199-005-0001 to 199-005-0035.
- (3) "AGENCY" for purposes of this section includes all AGENCY's affiliates, assignees, subsidiaries, parent companies, successors and transferees, and persons under common control with the AGENCY; any officers, directors, partners, agents and employees of such person; and all others acting or claiming to act on their behalf or in concert with them.
- (4) AGENCY shall apply the definitions in the State Public Ethics Law, ORS 244.020, for "actual conflict of interest", "potential conflict of interest", "relative" and "member of household".

m. HIPAA Compliance

- (1) The parties acknowledge and agree that each of OHA and AGENCY is a "covered entity" for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA). OHA and AGENCY shall comply with HIPAA to the extent that any work or obligations of OHA arising under this agreement are covered by HIPAA.
- (2) AGENCY shall develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this agreement and with HIPAA. AGENCY shall comply and cause all subcontractors to comply with HIPAA and all the HIPAA provisions listed in the Health Share of Oregon Core Contract.
- (3) HIPAA Information Security. AGENCY shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that Member Information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this agreement. Security incidents involving Member Information must be immediately reported to DHS' Privacy Officer.

**EXHIBIT C**

**SCOPE OF WORK**

**Sub-Acute Psychiatric Services for Children**

AGENCY will provide intensive 24-hour mental health services provided to children in a secure setting to assess, evaluate, stabilize or resolve the symptoms of an acute episode that occurred as the result of a diagnosed mental health condition. Services shall include an initial assessment; admitting history and physical; individual, family and group therapy; medically appropriate physical health care; activity therapy; psychosocial skill development; room and board; and nutritional care.

**EXHIBIT D**

**COMPENSATION**

**Method of Payment**

To receive payment AGENCY shall submit a CMS 1500 claim form to COUNTY's Third Party Administrator, Performance Health Technology Ltd (PH Tech) within 120 calendar days of the date of service in accordance with OAR 410-141-3420, "Billing and Payment". Claims may be submitted to PH Tech in either paper or electronic format.

Refer to Exhibit B, paragraph 4.d. for guidance regarding encounter submissions.





June 19, 2014

Board of Commissioners  
 Clackamas County

Members of the Board:

Approval of a Subrecipient Grant Agreement with  
 CODA, Inc. for  
the Housing Assistance Program

Purpose/Outcomes	To provide a housing assistance program for Clackamas County residents in alcohol and drug recovery.
Dollar Amount and Fiscal Impact	The total value of the agreement is \$221,997.
Funding Source	Oregon Health Authority - no County General Funds are involved.
Safety Impact	None
Duration	Effective July 1, 2014 and terminates on June 30, 2015
Previous Board Action	The previous agreement was approved by the Board of County Commissioners on March 8, 2012 - agenda item 030812-A2
Contact Person	Jill Archer, Director – Behavioral Health Division - 742-5336
Contract No.	6678

**BACKGROUND:**

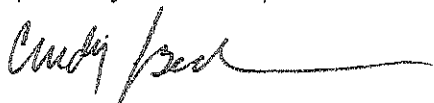
The Behavioral Health Division (BHD) of the Health, Housing & Human Services Department request the approval of a Grant Agreement with CODA, Inc. for the Housing Assistance Program. BHD has partnered with CODA, Inc. to pilot the housing assistance program since February 2012. This contract is a continuation of these services. Participants in the program are expected to have completed a detoxification program and are required to be fully engaged in alcohol and drug treatment in order to access housing assistance. The program has three main components: substance abuse recovery, finding and retaining permanent housing, and increasing income by connecting people with benefits and/or employment options.

The contract is effective July 1, 2014 and continues through June 30, 2015. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Cindy Becker, Director

**CLACKAMAS COUNTY, OREGON  
SUBRECIPIENT GRANT AGREEMENT 15-012**

Project Name: **A&D Housing Assistance Program**

Project Number: **40066 – A&D Block Grant**

This Agreement is between Clackamas County, Oregon, acting by and through its  
Department of Health, Housing and Human Services, Behavioral Health Division and **CODA, Inc.** (Subrecipient).

**Clackamas County Data**

Grant Accountant: **Wendy Towleron**

Program Manager: **Mary Rumbaugh**

Clackamas County – Behavioral Health Division/Fiscal  
2051 Kaen Road, # 367  
Oregon City, OR 97045  
Phone: (503)742-5324  
wendytow@co.clackamas.or.us

Clackamas County – Behavioral Health Division/Program  
2051 Kaen Road, # 367  
Oregon City, OR 97045  
Phone: (503)742-5305  
MaryRum@co.clackamas.or.us

**Subrecipient Data**

Finance/Fiscal Representative: **Flori Hall**

Program Representative: **Flori Hall**

CODA, Inc.  
1027 E Burnside  
Portland, Oregon 97214  
(503)239-8400  
florihall@codainc.org

CODA, Inc.  
1027 E Burnside  
Portland, Oregon 97214  
(503)239-8400  
florihall@codainc.org

DUNS: 093490142

**RECITALS**

WHEREAS, Clackamas County (COUNTY), is a political subdivision of the State of Oregon;

WHEREAS, COUNTY holds an Intergovernmental Agreement (IGA) for the Financing of Community Addictions and Mental Health Services (Agreement No.141403) with the State of Oregon acting by and through its Oregon Health Authority (“OHA”) for the biennium term of 2013-2015;

WHEREAS, ORS 430.610(4) and 430.640(1) authorize OHA to assist Oregon counties and groups of Oregon counties in the establishment and financing of community addictions and mental health programs operated or contracted for by one or more counties;

WHEREAS, COUNTY has established and proposes, during the term of the IGA, to operate or contract for the operation of community addictions and mental health programs in accordance with the policies, procedures and administrative rules of OHA;

WHEREAS, COUNTY has requested financial assistance from OHA to operate or contract for the operation of its community addictions and mental health programs;

WHEREAS, in connection with COUNTY's request for financial assistance and in connection with similar requests from other counties, OHA and representatives of various counties requesting financial assistance, including the Association of Oregon Counties, have attempted to conduct agreement negotiations in accordance with the Principles and Assumptions set forth in a Memorandum of Understanding that was signed by both parties;

WHEREAS, OHA is willing, upon the terms of and conditions of this IGA, to provide financial assistance to COUNTY to operate or contract for the operation of its community addictions and mental health programs;

WHEREAS, various statutes authorize OHA and COUNTY to collaborate and cooperate in providing for basic community addictions and mental health programs and incentives for community-based care in a manner that ensures appropriate and adequate statewide service delivery capacity, subject to availability of funds; and

WHEREAS, within existing resources awarded under this IGA, each CMHP/LMHA shall develop a plan to improve the integration of mental health, chemical dependency and physical/dental health care services with each Coordinated Care Organization (CCO) serving individuals in the CMHP/LMHAs county or counties. The plan shall be submitted as part of the Biennial Implementation Plan, required by ORS 430.630(9)(b), except for Central Oregon counties subject to the Regional Health Improvement Plan (RHIP) as identified in Oregon Laws 2011, SB204, Sections 13 -20. and be limited to providing a brief description of the approach, the basic goals and expected outcomes, and be attached hereto in Exhibit C.

WHEREAS, State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) “SAPT Block Grant” is flexible funding for the promotion, prevention, early identification and intervention of conditions that lead to mental health, substance use and addiction disorders with a focus on outcomes and enhanced healthcare experiences for individuals.

WHEREAS, this 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 Agreement the COUNTY and SUBRECIPIENT agree as follows:

## AGREEMENT

**Contract No.:** 6678  
**Grant Agreement No.:** 15-012

- 1. Term and Effective Date.** This Agreement shall be effective as of the **July 1, 2014** and shall expire on **June 30, 2015**, unless sooner terminated or extended pursuant to the terms hereof.
- 2. Program.** The Program is described in attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. SUBRECIPIENT agrees to perform the Project 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 State of Oregon Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services (Agreement No.141403) and the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration CFDA No. 93.959 requirements, that are the sources of the grant funding, in addition to compliance with requirements of the Public Health Service Act, Subpart II and III, Title XIX, Part B, as amended by Public Health Service Act, Public Law 106-310, 42 U.S.C 300x. A copy of the applicable portions of the State of Oregon Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services (Agreement No.141403) and the CFDA Program Information Description for 93.959 have been provided to SUBRECIPIENT by the COUNTY, which is attached to and made a part of this Agreement by this reference.

4. **Grant Funds.** The COUNTY's funding for this Agreement is the Intergovernmental Agreement (IGA) for the Financing of Community Addictions and Mental Health Services (Agreement No.141403) (CFDA 93.959) issued to the COUNTY by the State of Oregon acting by and through its Oregon Health Authority ("OHA"). The State of Oregon receives Block Grants for Substance Abuse Services (SABG) funds from the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration. The maximum, not to exceed, grant amount that the COUNTY will pay is **\$221,997.**
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 Sub-Recipient, and accepts among its duties and responsibilities the following:
  - a) **Financial Management.** The SUBRECIPIENT shall comply with the State of Oregon Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services (Agreement No.141403) and the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration CFDA No.93.959 requirements, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
  - b) **Cost Principles.** The SUBRECIPIENT shall administer the award in conformity with 2 CFR 230, Appendix B (OMB Circular A-122) *Cost Principles for Nonprofit Organizations*. These 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.
  - c) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
  - d) **Match.** Matching funds are not required for this Agreement.
  - e) **Budget.** The SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: RECIPIENT PROGRAM BUDGET. The SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification changes the scope of the original grant application or agreement.

- f) **Payment.** The SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D.
- g) **Performance Reporting.** The SUBRECIPIENT must submit Performance Reports as specified in Exhibit E for each period (monthly, quarterly, and final) during the term of this Agreement.
- h) **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, Sub-Recipient will submit completed Exhibit D Reimbursement Request on a monthly basis.
- i) **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>.
- j) **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.
- k) **Lobbying.** The SUBRECIPIENT certifies (Exhibit C: 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 Part 230 Appendix B Item 25 (*OMB Circular A-122*) 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. In addition, the SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- l) **Audit.** The SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and revised *OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"*. SUBRECIPIENT expenditures of \$500,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform an A-133 audit and submit the audit reports to the COUNTY within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- m) **Monitoring.** The SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with Public Health Service Act, Subpart II and III, title XIX, Part B, as amended by Public Health Service Act, Public Law 106-310, 42 U.S.C. 300x. 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 Sub-Recipient 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.

- n) **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 five (5) 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.
- o) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for State of Oregon Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services (Agreement No. 141403) and the Federal U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration CFDA No. 93.959 requirements, 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.
- p) **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) **Public Policy.** The SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 215 as applicable to SUBRECIPIENT. Additional requirements are as specified in 10 CFR Part 600 Subpart B.
- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any further implementing regulations issued by HHS.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this agreement is in excess of \$100,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the HHS and the appropriate Regional Office of the Environmental Protection Agency.
- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement.

- e) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall 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.

#### 11. 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 in excess of \$25,000 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 in excess of \$25,000 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 ORS 279C.520 and 279C.530, which are incorporated by reference herein
- c) The 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 shall be excluded 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.

#### 12. General Agreement Provisions.

- a) **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.
- b) **Insurance.** During the term of this agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
  - 1) **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.

- 2) **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.
  - 3) **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.
  - 4) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.
  - 5) **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.
  - 6) **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.
  - 7) **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. 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 complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
  - 8) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.
  - 9) **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.
- c) **Assignment.** This Agreement may not be assigned in whole or in part with the express written approval of the COUNTY.
- d) **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.



- e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- f) **Governing Law.** This Agreement 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.
- g) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- i) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements.

*(Signature Page Attached)*

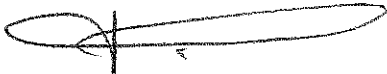
**SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT**

This Agreement consists of twelve (12) sections plus the following exhibits which by this reference is incorporated herein.

- **Exhibit A:** Statement of Program Objectives
- **Exhibit B:** Subrecipient Program Budget
- **Exhibit C:** Required Financial Reporting and Reimbursement Requests
- **Exhibit D:** Request for Reimbursement
- **Exhibit E:** Congressional Lobbying Certificate
- **Exhibit F:** Performance Reporting
- **Exhibit G:** Award Special Terms & Conditions
- **Exhibit H:** Catalog of Federal Domestic Assistance (CFDA) Program 93.959 Information
- **Exhibit I:** Intergovernmental Agreement (IGA) for the Financing of Community Addictions and Mental Health Services (Agreement No.141403)

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

**CODA, INC.**

By:   
\_\_\_\_\_  
Timothy Hartnett, Executive Director  
6/4/14  
\_\_\_\_\_  
Date  
1027 E Burnside Avenue  
\_\_\_\_\_  
Street Address  
Portland, Oregon 97214  
\_\_\_\_\_  
City / State / Zip  
(503)239-8400 x343 / (503)239-8406  
\_\_\_\_\_  
Phone Number / Fax

**CLACKAMAS COUNTY**

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

**Signing on Behalf of the Board:**

\_\_\_\_\_  
Cindy Becker, Director  
Health, Housing and Human Services Department  
\_\_\_\_\_  
Date

**EXHIBIT A  
STATEMENT OF PROGRAM OBJECTIVES**

<b>PROJECT NAME: A&amp;D Housing Assistance Pilot Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) “SAPT Block Grant”	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

I. SCOPE OF SERVICES

A. SUBRECIPIENT agrees to accomplish the following work under this contract:

1. Provide housing assistance and services program for Clackamas County residents in alcohol and drug recovery. SUBRECIPIENT will support the substance abuse treatment and early recovery efforts of the participants while also focusing on participants becoming self-sufficient and obtaining permanent housing placements. The target population for this program is individuals participating in alcohol and drug recovery at or below 50% Median Family Income (according to 2011 HUD data), homeless, or at risk of homelessness.

Participants in the program are expected to have completed a detoxification program and are required to be fully engaged in alcohol and drug treatment in order to access housing assistance. The program has three main components: substance abuse recovery, finding and retaining permanent housing and increasing income by connecting people with benefits and/or employment options.

2. Assist program participants in finding and retaining permanent housing. On an annual basis, \$82,880 may be used toward housing program participants. These funds can be used for, but is not limited to, moving costs, rent assistance, application fees, deposits, and paying off previous debts. Each participant can access a maximum of \$2,500 while they are participating in the program.
3. Develop partnerships with landlords and housing providers to help program participants stay housed. This includes responding to landlord requests for assistance within 24 to 48 hours and attending meetings necessary to mediate lease violations. SUBRECIPIENT staff must be prepared to address any concern landlords may have. Strategies for addressing these concerns can include paying for criminal background checks and credit reports, obtaining letters of support from drug counselors or probation/parole officers, and documenting income.

B. SUBRECIPIENT will provide case management as follows:

1. Case management loads must be no more than 1:25 Case Manager to Program Participant.
2. With emphasis on housing retention and based on best practices, meet more often with program participants prior to move-in and during the first 3 months of their housing placement to help with increased housing retention. Case Managers will be expected to review lease responsibilities with program participants and help participants adjust to what those responsibilities are. Case Managers are required to meet with program participants at least once a month in their residence to assess the participant's stability in their new housing.
3. Provide linkage to needed outpatient alcohol and drug recovery services.

4. Assist participants in applying to and for entitlement programs.
  5. Link participants to employment options.
- C. Six months after program participants have completed the program SUBRECIPIENT will conduct post-program surveys/interviews. The following information will be asked in the post-program survey/interview:
- How long has program participant maintained sobriety?
  - At any time during the program, has program participant been involved in criminal activity?
  - Is program participant currently housed? Does program participant anticipate they will remain housed?
  - Has program participant been connected with entitlements? Which ones?
  - Is program participant currently employed and/or increased their income since participating in the program?
- D. SUBRECIPIENT agrees that SUBRECIPIENT, its agents and employees shall maintain the confidentiality of any client identifying information, written or otherwise, with which they may come in contact, in accordance with all applicable provisions of state and federal statutes, rules and regulations, and shall comply with the same in the event of requests for information by any person or federal, state or local agency. In addition, the SUBRECIPIENT acknowledges the existence of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, 45 CFR Parts 160-164, and agrees that SUBRECIPIENT and SUBRECIPIENT's agents and employees will comply with all applicable requirements of HIPAA related to the confidentiality of client records or other client identifying information.

**EXHIBIT B  
 SUBRECIPIENT PROGRAM BUDGET**

<b>PROJECT NAME: A&amp;D Housing Assistance Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) "SAPT Block Grant"	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

**Annual Operating Budget for Supported Housing Program**

Personnel	
Salaries and Wages	\$ 86,025
Payroll Taxes and Benefits	23,226
Operational	
Phone	1,170
Mileage and Parking	810
Utilities	1,128
Office Supplies	600
Building Maintenance and Security	1,905
Rent	9,670
Equipment Rental and Maintenance	1,612
Housing Assistance Funds	82,880
Insurance	2,400
Total Program Expenses	\$ 211,426
<u>Administration</u>	<u>10,571</u>
<b>Total Program Costs</b>	<b>\$ 221,997</b>

**EXHIBIT C**  
**REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUESTS**

<b>PROJECT NAME: A&amp;D Housing Assistance Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) "SAPT Block Grant"	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

1. SUBRECIPIENT may submit multiple requests for cost reimbursement, but reimbursement requests must be submitted no less frequently than monthly. The invoices must describe all work performed with particularity, including by whom it was performed and must itemize and explain all expenses for which reimbursement is claimed. Invoices must be submitted with the REQUEST FOR REIMBURSEMENT form (Exhibit D).
2. Invoices for reimbursement of expenses occurring in a COUNTY fiscal year (July 1 - June 30) must be received no later than the following July 15th. In addition, for quarterly reporting purposes, invoices need to be received no later than 15<sup>th</sup> of the month following the quarter ended June, September, December and March.
3. Payments will be based on reimbursement of actual costs authorized by this Agreement. Supporting documentation must be retained for expenses for which reimbursement is claimed and for all match expenses reported. Documentation required includes personal service cost detail, services and supplies cost detail, copies of paid contract and equipment invoices and receipts for lodging, airfare, car rental and conference registration. This documentation should be readily available, upon request or site visit.
4. Invoices must be sent to:

Clackamas County Behavioral Health Division  
Attn: Mary Rumbaugh  
2051 Kaen Road, #367  
Oregon City, OR 97045  
or by email at [MaryRum@clackamas.us](mailto:MaryRum@clackamas.us)

Invoices are subject to the review and approval of the Project Officer and Grant Accountant. Payment is contingent on compliance with all terms and conditions of this Agreement, including reporting requirements.

**EXHIBIT D  
 REQUEST FOR REIMBURSEMENT**

**REQUEST FOR REIMBURSEMENT**

**Note: Please refer to the approved budget in you grant agreement.  
 All expenditures must have adequate supporting documentation.**

**Subrecipient:** CODA, Inc.

**Grant Number:** 15-012

**Address:** 1027 E Burnside Avenue

**Report Period:** \_\_\_\_\_

Portland, Oregon 97214

**County Contract #:** 6678

**Contact Person:** Flori Hall

**Phone Number:** (503)239-8400

**E-mail:** florihall@codainc.org

Budget Category	Budget	Current Draw Request	Previously Requested	Cumulative Expenses to Date
Salaries and Wages	\$ 86,025	\$	\$	\$
Payroll Taxes and Benefits	23,226			
Phone	1,170			
Mileage and Parking	810			
Utilities	1,128			
Office Supplies	600			
Building Maintenance and Security	1,905			
Rent	9,670			
Equipment Rental and Maintenance	1,612			
Housing Assistance Funds	82,880			
Insurance	2,400			
Administration	10,571			
<b>Total Grant Funds Requested</b>	<b>\$ 221,997</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

*Clackamas County and the Federal government retain the right to inspect all financial records and other books, documents, papers, plans, records shipments and payments and writing of CONTRACTOR that are pertinent to this Agreement.*

**CERTIFICATION**

*I certify that this report is true and correct to the best of my knowledge and that all expenditures reported have been made in accordance with the budget and other provisions contained in the agreement.*

**Prepared By:** \_\_\_\_\_

**Authorized Signer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**SUBMIT COMPLETED FORM TO:**

Clackamas County Behavioral Health Division  
 2051 Kaen Road, Suite 367  
 Oregon City, OR 97045  
 Attn: Jill Archer, Director

**EXHIBIT E**  
**CONGRESSIONAL LOBBYING CERTIFICATE**

<b>PROJECT NAME: A&amp;D Housing Assistance Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) "SAPT Block Grant"	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

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

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

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

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

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

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

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

**CODA, Inc.**  
Organization Name

**A&D Housing Assistance Program**  
Award Number or Project Name

Timothy Hartnett, Executive Director  
Name and Title of Authorized Representative

  
Signature

6/4/14  
Date

**EXHIBIT F**



### PERFORMANCE REPORTING

<b>PROJECT NAME: A&amp;D Housing Assistance Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) “SAPT Block Grant”	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

A. SUBRECIPIENT shall submit Performance Reports per the following schedule:

- July 1, 2014 through December 31, 2014                      Due February 20, 2015
- January 1, 2015 through June 30, 2015                      Due July 20, 2015

Reports shall include:

- Number of individuals who have stayed in the program
- Number of individuals clean and sober
- Number of individuals who have not entered in to criminal activity
- Number of individuals who have remained housed
- Number of individual who have connected with entitlements
- Number of individuals who have found employment and/or increased their income.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should SUBRECIPIENT fail to submit required 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, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until SUBRECIPIENT submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of SUBRECIPIENT.

- B. Record and Fiscal Control System: All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of five (5) years after receipt of final payment under this contract; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- C. Access to Records: The COUNTY, the State of Oregon, and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of SUBRECIPIENT which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to SUBRECIPIENT were in excess of the amount to which the SUBRECIPIENT was entitled, then SUBRECIPIENT shall repay the amount of the excess to COUNTY.

- D. The SUBRECIPIENT must submit a **final** Performance Report no later than July 20, 2014.
- E. In addition to the above listed report, the SUBRECIPIENT must notify COUNTY Project Manager of developments that have a significant impact on the Grant support activities. The SUBRECIPIENT must inform the Project Manager as soon as problems, delays or adverse

conditions become known which will materially impair the ability to meet the outputs/outcomes specified above. This notification shall include a statement of the action taken or contemplated and any assistance needed to resolve the situation.

F. SUBRECIPIENT will submit reports electronically to: [MaryRum@co.clackamas.or.us](mailto:MaryRum@co.clackamas.or.us)

Or by mail to:  
Clackamas County Behavioral Health Division  
Attention: Mary Rumbaugh  
2051 Kaen Road, # 367  
Oregon City, OR 97045

**EXHIBIT G  
AWARD SPECIAL TERMS AND CONDITIONS**

<b>PROJECT NAME: A&amp;D Housing Assistance Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) “SAPT Block Grant”	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

**A. General Performance Standards**

1. SUBRECIPIENT ensures that all staff employed or contracted by SUBRECIPIENT who provide services or are otherwise engaged in activities under this agreement are fully aware of and in compliance with the terms and conditions of this agreement.
2. SUBRECIPIENT assures that all of SUBRECIPIENT’s employees and independent contractors providing services under this agreement will work within the scope of their credentials and any applicable licensure or registration. SUBRECIPIENT shall not allow services to be provided by an employee or independent contractor who does not have a valid license or certification required by state or federal law.

**B. Staff**

SUBRECIPIENT will provide the following for all staff that are in direct contact with COUNTY clients:

- Completion of a successful criminal history records check through the Oregon Law Enforcement Data System; and
- Appropriate education and academic degrees;
- Licenses or certificates, as required;
- Relevant work history or qualifications;

**C. Monitoring**

COUNTY shall monitor services provided by SUBRECIPIENT and has the right to require SUBRECIPIENT’s compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this agreement.

COUNTY may conduct compliance monitoring related to this agreement. SUBRECIPIENT shall cooperate with COUNTY in such monitoring. COUNTY shall provide SUBRECIPIENT twenty (20) business days written notice of any agreement compliance monitoring activity that requires any action or cooperation by SUBRECIPIENT. Notice of monitoring shall include the date monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

**D. Miscellaneous Federal Provisions**

SUBRECIPIENT shall comply with all Federal laws, regulations, and executive orders applicable to this agreement or to the delivery of Services. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to this agreement, and as they are amended from time to time: (a) Title VI and VII of the Civil Rights Act of 1964, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, (c) the Americans with Disabilities Act of 1990, (d) Executive Order 11246, (e) the Health Insurance

Portability and Accountability Act of 1996, (f) the Age Discrimination in Employment Act of 1967, and the Age Discrimination Act of 1975, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, (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, (j) all Federal law governing operation of Community Mental Health Programs, including without limitation, 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 Covered Services in violation of 42 USC 14402.

**E. Abuse Reporting**

SUBRECIPIENT shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if AGENCY were a mandatory abuse reporter. If SUBRECIPIENT is not a mandatory reporter by statute, these reporting requirements shall apply during work hour only. SUBRECIPIENT shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

**F. Confidentiality**

SUBRECIPIENT agrees that SUBRECIPIENT, its agents and employees shall maintain the confidentiality of any client identifying information, written or otherwise, with which they may come in contact, in accordance with all applicable provisions of state and federal statutes, rules and regulations, and shall comply with the same in the event of requests for information by any person or federal, state or local agency.

**EXHIBIT H**  
**Catalog of Federal Domestic Assistance (CFDA) Program 93.959 Information**  
[www.cfda.gov](http://www.cfda.gov)

<b>PROJECT NAME: A&amp;D Housing Assistance Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) “SAPT Block Grant”	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

**Block Grants for Prevention and Treatment of Substance Abuse**  
Substance Abuse Block Grant SABG  
Number: 93.959  
Agency: Department of Health and Human Services  
Office: Substance Abuse and Mental Health Services Administration

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**Authorization (040):**

Public Health Service Act, Subpart II and III, Title XIX, Part B, as amended by Public Health Service Act, Public Law 106-310, 42 U.S.C 300x.

**Objectives (050):**

To provide financial assistance to States and Territories to support projects for the development and implementation of prevention, treatment and rehabilitation activities directed to the diseases of alcohol and drug abuse.

**Types of Assistance (060):**

Formula Grants

**Uses and Use Restrictions (070):**

Funds may be used at the discretion of the States to achieve the statutory objectives, including the fulfillment of certain requirements. Not less than 20 percent of the funds shall be spent for programs for individuals who do not require treatment for substance abuse, but to educate and counsel such individuals and to provide for activities to reduce the risk of such abuse by the individuals by developing community-based strategies for prevention of such abuse, including the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products. States shall expend not less than 5 percent of the grant to increase (relative to fiscal year 1994) the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs). In addition, a State that has a rate of acquired immune deficiency syndrome in excess of the rate stipulated at 42 USC 300A-24(b) must expend the portion of its block grant specified by 300A-24(b) for HIV early intervention services as defined by the PHS Act. States must require programs of treatment for intravenous drug abuse to admit individuals into treatment within 14 days after making such a request or 120 days of such a request, if interim services are made available within 48 hours. States will provide, directly or through arrangements with other public or nonprofit entities, tuberculosis services such as counseling, testing, treatment, and early intervention services for substance abusers at risk for the human immunodeficiency virus (HIV) disease. Other statutory requirements also apply. Up to 5 percent of grant funds may be used for administering the grant.

**Eligibility Requirements (080)**

**Applicant Eligibility (081):**

State and U.S. Territory Governments; or Tribal Organizations. NOTE: Only the Red Lake Band of Chippewa Indians is eligible for direct award of Block Grants for Prevention and Treatment of Substance Abuse Funds, per the PHS Act.

**Beneficiary Eligibility (082):**

Recipients of State and U.S. Territory Governments; or Tribal Organizations. NOTE: Only the Red Lake Band of Chippewa Indians is eligible for direct award of Block Grants for Prevention and Treatment of Substance Abuse Funds, per the PHS Act.

**Credentials/Documentation (083):**

No Credentials or documentation are required. This program is excluded from coverage under OMB Circular No. A-87.

**Application and Award Process (090)**

**Preapplication Coordination (091):**

Preapplication coordination is not applicable. Environmental impact information is not required for this program. This program is excluded from coverage under E.O. 12372.

**Application Procedures (092):**

This program is excluded from coverage under OMB Circular No. A-102. This program is excluded from coverage under OMB Circular No. A-110. Chief Executive Officer of the State, Territory, or Tribal Organization (limited to the Red Lake Band of the Chippewa) must apply annually for an allotment.

**Award Procedure (093):**

Grant awards are issued directly by the Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration (SAMHSA) to the designated State Agency, Territory, or Tribal organization (limited to the Red Lake Band of the Chippewa).

**Deadlines (094):**

Nov 30, -0001 The application is due no later than October 1 of the fiscal year for which SABG funding is being requested.

**Range of Approval/Disapproval Time (095):**

From 30 to 60 days. Synar Report is due by December 31, 2013.

**Appeals (096):**

Not Applicable.

**Renewals (097):**

Not Applicable.

**Assistance Consideration (100)**

**Formula and Matching Requirements (101):**

Statutory Formula: Title XIX , Part B, Subpart II and III, Public Law 106-310.

This program has no matching requirements.

This program has MOE requirements, see funding agency for further details. Under 42 USC 300x-30, States expenditure for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

**Length and Time Phasing of Assistance (102):**

Each allotment is available for obligation and expenditure during the fiscal year it was allotted through the end of the subsequent fiscal year for which the State is applying for the grant. Method of awarding/releasing assistance: quarterly.

**Post Assistance Requirements (110)**

**Reports (111):**

Synar report is due on December 31. Cash reports are not applicable. Progress reports are not applicable. Federal Financial Report SF-425 is due 90 days after the end of the budget period. Performance monitoring is not applicable.

**Audits (112):**

In accordance with the provisions of OMB Circular No. A-133 (Revised, June 27, 2003), "Audits of States, Local Governments, and Non-Profit Organizations," nonfederal entities that expend financial assistance of \$500,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133.

**Records (113):**

Each State must maintain records which are consistent with their State laws and requirements.

**Financial Information (120)**

**Account Identification (121):**

75-1364-0-1-551.

**Obligations (122):**

(Formula Grants) FY 12 \$1,689,876,866; FY 13 est \$1,600,199,867; and FY 14 est \$1,600,199,867

**Range and Average of Financial Assistance (123):**

\$116,688 to \$153,120,476; \$26,669,998.

**Program Accomplishments (130):**

Fiscal Year 2012: 60 awards were made. Fiscal Year 2013: 60 awards were made. Fiscal Year 2014: It is estimated that 60 awards will be made.

**Regulations, Guidelines, and Literature (140):**

45 CFR Part 96

**Information Contacts (150)**

**Regional or Local Office (151) :**

None.

**Headquarters Office (152):**

Virginia Simmons 1 Choke Cherry Road, Rm. 7-1097, Rockville, Maryland 20857 Email: [virginia.simmons@samhsa.hhs.gov](mailto:virginia.simmons@samhsa.hhs.gov) Phone: 240-276-1422 Fax: 240-276-1430

**Website Address (153):**

<http://www.samhsa.gov>

**Related Programs (160):**

Not Applicable.

**Examples of Funded Projects (170):**  
Not Applicable.

**Criteria for Selecting Proposals (180):**  
Applications must fulfill statutory and Federal regulations and regulatory requirements. For information on statutory and Federal regulations requirements contact John J. Campbell, Division of State and Community Assistance, Center for Substance Abuse Treatment, SAMHSA, 1 Choke Cherry Road, Rm. 5-1069, Rockville, MD 20857. Telephone: (240-) 276-2891.



**EXHIBIT I**

<b>PROJECT NAME: A&amp;D Housing Assistance Program</b> State of Oregon Service Element MHS 37 – Special Projects/Flexible Funding (Fund Source: 0520 SAPT GR Treatment & Prevention Funds, CFDA #93.959) “SAPT Block Grant”	<b>AGREEMENT No. 15-012</b>
<b>SUBRECIPIENT: CODA, INC.</b>	

**Intergovernmental Agreement (IGA) for the Financing of Community  
Addictions and Mental Health Services (Agreement No.141403)**

*(Attached Separately)*

June 19, 2014

Board of Commissioners  
 Clackamas County

Members of the Board:

Approval of an Agency Service Agreement with  
 Lori Olson, PMHNP for  
Outpatient Mental Health Services

<b>Purpose/Outcomes</b>	To provide Outpatient Mental Health Services for people who are Oregon Health Plan (OHP) members capitated to Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	The contract does not contain an upper limit; expenditures are controlled by Behavioral Health Division staff who pre-authorize and monitor services on an on-going basis.
<b>Funding Source</b>	Oregon Health Authority - no County General Funds are involved.
<b>Safety Impact</b>	None
<b>Duration</b>	Effective July 1, 2014 and terminates on June 30, 2015
<b>Previous Board Action</b>	The previous agreement was approved by the Board of County Commissioners on January 10, 2013 - agenda item 010113-A3
<b>Contact Person</b>	Jill Archer, Director – Behavioral Health Division - 742-5336
<b>Contract No.</b>	6710

**BACKGROUND:**

The Behavioral Health Division of the Health, Housing & Human Services Department request the approval of an Agency Service Agreement with Lori Olson, PMHNP for Outpatient Mental Health services. Outpatient Mental Health services include one-on-one therapy as outlined by Health Share of Oregon. The Behavioral Health Division has partnered with Lori Olson, PMHNP for outpatient mental health services since 2008. This contract is a continuation of these services.

The contract is effective July 1, 2014 and continues through June 30, 2015. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Cindy Becker, Director

# AGENCY SERVICE CONTRACT

## Contract # 6710

This Agency Service Contract is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY," and **LORI OLSON, PMHMP**, hereinafter called "AGENCY." Throughout this contract and all exhibits, the term "DEPARTMENT" shall refer to and mean the State of Oregon, Oregon Health Authority.

## CONTRACT

### 1.0 Engagement

COUNTY hereby engages AGENCY to provide outpatient mental health services as more fully described in Exhibit B, Scope of Work, attached hereto and incorporated herein.

### 2.0 Term

Services provided under the terms of this contract shall commence on **July 1, 2014** and shall terminate **June 30, 2015** unless terminated by one or both parties as provided for in paragraph 6.0 below.

### 3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate AGENCY as specified in Exhibit C, Compensation. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this contract, should AGENCY fail to submit required 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, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until AGENCY submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

3.3 Financial Records. AGENCY and its subcontractors shall maintain complete and legible financial records pertaining in whole or in part to this contract. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines. Financial records and supporting documents shall be retained for at least six (6) years or such period as may be required by applicable law, following final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, AGENCY shall repay the amount of the excess to COUNTY.

3.4 Access to Records and Facilities. COUNTY, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of AGENCY that are directly related to this contract, the funds paid to AGENCY hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, and transcripts. In addition, AGENCY shall permit authorized representatives of COUNTY and DEPARTMENT to perform site reviews of all services delivered by AGENCY hereunder.

3.4.1 AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this agreement available to COUNTY upon request.

3.4.2 COUNTY conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this agreement. AGENCY agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of AGENCY which are pertinent to this agreement to ensure appropriate expenditure of funds under this agreement. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

3.4.3 AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy, the independence rules contained within Governmental Auditing Standards (1994 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.

3.4.4 AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.

#### **4.0 Manner of Performance**

4.1 Compliance with Applicable Laws and Regulations and Special Federal Requirements. AGENCY shall comply with all Federal, State, local laws, rules, and regulations applicable to the work to be performed under this contract, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit D, paragraph 9. Compliance with Applicable Law, attached hereto and incorporated herein by this reference. AGENCY shall comply with Oregon Administrative Rule (OAR) 410-120-1380, which establishes the requirements for compliance with Section 4751 of Omnibus Budget Reconciliation Act (OBRA) 1991 and ORS 127-649, Patient Self-Determination Act.

4.2 Precedence. A requirement listed both in the main boilerplate of this contract and in an exhibit, the exhibit shall take precedence.

4.3 Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.

4.4 Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of COUNTY, State, or Federal Government as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

#### **5.0 General Conditions**

5.1 Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend 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 actions, suits, claims or demand attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents, and employees, in performance of this contract.

AGENCY shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of AGENCY, or its agents or employees under this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

5.2 Insurance. During the term of this agreement, AGENCY shall maintain in force, at its own expense, each insurance noted below:

5.2.1 Commercial General Liability

Required by COUNTY  Not required by COUNTY

AGENCY shall obtain, at AGENCY'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 \$2,000,000 per occurrence/\$4,000,000 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 it.

5.2.2 Commercial Automobile Liability

Required by COUNTY  Not required by COUNTY

AGENCY shall also obtain at AGENCY's expense, and keep in effect during the term of the Agreement, "Symbol 1" 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 \$2,000,000.

5.2.3 Professional Liability

Required by COUNTY  Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$2,000,000 combined single limit per occurrence/\$4,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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.

5.2.4 Tail Coverage. If 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 AGENCY's insurer will provide "tail" coverage as subscribed, 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 its retroactive date is on or before the effective date of this contract.

5.2.5 Additional Insured Provisions. The insurance, other than the professional liability insurance, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its commissioners, agents, officers, and employees" as an additional insured.

5.2.6 Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

5.2.7 Insurance Carrier Rating. Coverages provided by AGENCY 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.

5.2.8 Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to COUNTY. No contract 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 this contract have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

5.2.9 Primary Coverage Clarification. AGENCY's coverage will be primary in the event of a loss.

5.2.10 Cross Liability Clause. A cross-liability or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.

5.3 Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.

5.4 Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.

5.5 Severability. If any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this contract shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support of the activity contracted herein except as set forth in this contract.

5.8 Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.

5.9 Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:

5.9.1 AGENCY shall:

- a. Make payments promptly, as due, to all persons supplying to AGENCY 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 agency or subcontractor incurred in performance of this contract.
- c. Not permit any lien or claim to be filed or prosecuted against COUNTY on account of any labor or material furnished.

- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.

5.9.3 No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:

- a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
- b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

5.9.4 AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.5 As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, copartnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.

5.9.6 Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

5.10 Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.

5.11 Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.

5.12 Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

## 6.0 Termination

6.1 Termination Without Cause. This contract may be terminated by mutual consent of both parties, or by either party, upon ninety (90) days' notice, in writing or delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this contract effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 Terms of the HealthShare Risk Accepting Entity Agreement are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.

6.2.2 The termination, suspension or expiration of the HealthShare Risk Accepting Entity Agreement.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.

6.2.4 COUNTY has evidence that AGENCY has endangered or is endangering the health or safety of clients, staff or the public. AGENCY shall ensure the orderly and reasonable transfer of care in progress with consumers and shall work with COUNTY staff to accomplish the same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of AGENCY, or the lapse, relinquishment, suspension, expiration, cancellation or termination of AGENCY's insurance as required in this contract.

6.2.6 AGENCY's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage AGENCY's affairs, or the judicial declaration that AGENCY is insolvent.

6.2.7 AGENCY fails to perform any of the other provisions of this contract, or fails to pursue the work of this contract in accordance with its terms, and after written notice from the COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.2.8 Debarment and Suspension. COUNTY shall not permit any person or entity to be an AGENCY if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. COUNTY shall require all AGENCYs with awards that exceed the simplified acquisition threshold to provide the required certification regarding their exclusion status and that of their principals prior to award.

6.3 Notice of Default. COUNTY may also issue a written notice of default (including breach of contract) to AGENCY and terminate the whole or any part of this contract if AGENCY substantially fails to perform the specific provisions of this contract. The rights and remedies of COUNTY related to default (including breach of contract) by AGENCY shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6.4 Transition. Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.



Agency Service Contract # 6710  
**Lori Olson, PMHNP**  
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**7.0 Notices**

If to AGENCY:

Lori Olson, PMHNP  
4511 SE Hawthorne, Suite 215  
Portland, OR 97215-3170

If to COUNTY:

Clackamas County Behavioral Health Division  
Attention: Contract Administration  
2051 Kaen Road, # 367  
Oregon City, OR 97045

This contract consists of seven (7) sections plus the following exhibits and attachments which by this reference are incorporated herein:

Exhibit A	Definitions
Exhibit B	Scopes of Work
Exhibit C	Compensation
Exhibit D	Statement of General Conditions
Attachment 1	DSN Provider Capacity Report

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

**LORI OLSON, PMHNP**

By:   
Lori Olson

**CLACKAMAS COUNTY**

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

Date \_\_\_\_\_  
4511 SE Hawthorne, Suite 215  
Street Address \_\_\_\_\_  
Portland, Oregon 97215-3170  
City/State/Zip \_\_\_\_\_  
(503) 224-6446 / (503) 224-8878  
Phone \_\_\_\_\_ / Fax \_\_\_\_\_

**Signing on Behalf of the Board:**

\_\_\_\_\_  
Cindy Becker, Director  
Health, Housing and Human Services Department

Date \_\_\_\_\_

**EXHIBIT A**  
**DEFINITIONS**

Whenever used in this Agency Services Agreement, the following terms shall have the meanings set forth below:

AMH: State of Oregon, Department of Human Services, Addictions and Mental Health

AGENCY: entity contracted by COUNTY

Allowable Costs: costs described in OMB Circular A-87 except to the extent such costs are limited or excluded by other provisions of this contract

CCO: Coordinated Care Organization is an entity that has been certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care services

Community Outcome Management and Performance Accountability Support System (COMPASS): the AMH project to implement a new contracts system, roll out an optional free electronic health records systems (OWITS), and enhance the collection of data through MOTS

Contract: this Agency Services Contract between COUNTY and AGENCY for the provision of services

COUNTY: Clackamas County Behavioral Health Division

Covered Services: medically appropriate services specified in OAR 410-141-3120, "Operations and Provision of Health Services" and limited in accordance with OAR 410-141-3420, "Billing and Payment" for OHP Members. The term "Covered Services" may be expanded, limited, or otherwise changed pursuant to the Clackamas County Health Share of Oregon/Clackamas Participation Agreement and OARs. Covered Services may also refer to authorized services provided to uninsured, indigent clients.

DEPARTMENT: AMH contracts with COUNTY to establish and finance community mental health and addition programs; COUNTY, in turn, subcontracts certain services to AGENCY

DHS: Department of Human Services of the State of Oregon

Federal Funds: funds paid to AGENCY under this contract that are received from an agency, instrumentality or program of the Federal government of the United States

Health Share of Oregon: a Coordinated Care Organization serving Oregon Health Plan enrollees of Clackamas, Multnomah and Washington Counties.

Individual: an individual accessing publicly funded behavioral health services who is either an OHP Member or is determined eligible for services as an uninsured, indigent individual.

Mental Health Services: treatment services for individuals diagnosed with serious mental health illness, or other mental or emotional disturbance posing a danger to the health and safety of themselves or others

Medicaid: Federal funds received by OHA under the Title XIX of the Social Security Act and Children's Health Insurance Program Funds administered jointly with Title XIX funds as part of State medical assistance program by OHA

Misexpenditure: money, other than an overexpenditure disbursed to AGENCY by COUNTY under this agreement and expended by AGENCY that:

- (a) is identified by the Federal government as expended contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money, for which the Federal government has requested reimbursement by the State of Oregon and whether in the form of a Federal determination of improper use of Federal funds, a Federal notice of disallowance, or otherwise; or
- (b) is identified by the COUNTY, State of Oregon or OHA as expended in a manner other than that permitted by this agreement, including without limitation, any money expended by AGENCY, contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money; or
- (c) is identified by the COUNTY, State of Oregon or OHA as expended on the delivery of a service that did not meet the standards and requirements of this agreement with respect to that service

Measures and Outcomes Tracking System (MOTS): the AMH data system that stores client data submitted by AGENCY and/or COUNTY

OAR: Oregon Administrative Rules duly promulgated by the Oregon Health Authority and as amended from time to time.

OHA: the State of Oregon, acting by and through its Oregon Health Authority.

OHP Member: an individual found eligible by a division of the Oregon Department of Human Services to receive services under the OHP (Oregon Health Plan) Medicaid Demonstration Project or State Children's Health Insurance Program and who is enrolled with COUNTY as Health Share of Oregon/Clackamas.

Oregon Web Infrastructure for Treatment Services (OWITS): is 1) an optional free electronic health records system available to Counties and their Providers to submit the MOTS data, and 2) a system to manage the AMH services

Primary Source Verification: verification from the original source of a specific credential (education, training, licensure) to determine the accuracy of the qualifications of an individual health care practitioner. Examples of primary source verification include, but are not limited to, direct correspondence, telephone verification and internet verifications.

Third Party Resources: any individual, entity, or program that is, or may be, liable to pay all or part of the cost of any Covered Service furnished to an OHP Member, including but not limited to: private health insurance or group health plan; employment-related health insurance; medical support from absent parents; workers' compensation; Medicare; automobile liability insurance; other federal programs such as Veteran's Administration, Armed Forces Retirees and Dependent Act, Armed Forces Active Duty and Dependents Military Medical Benefits Act, and Medicare Parts A and B; another state's Title XIX, Title XXI or state-funded Medical Assistance Program; and personal estates.

Valid Claim: an invoice, in the form of a CMS 1500 claim form, submitted for payment of covered health services rendered to an eligible client that is submitted within the required 90 days from the date of service or discharge and that can be processed without obtaining additional information from the provider of the service or from a third party. A valid claim is synonymous with the federal definition of a clean claim as defined in 42 CFR 447.45(b).

**EXHIBIT B**  
**SCOPE OF WORK**

**Outpatient Mental Health Services:**

AGENCY shall follow the Medical Necessity Criteria and Utilization Guidelines as outlined in the Health Share of Oregon Adult Utilization Management Guidelines and Child and Family Utilization Management Guidelines.

AGENCY shall ensure clinical staff are trained in the use of these guidelines including the service description, admission, continued stay and transition criteria

AGENCY shall ensure clinical staff are trained in the use of the Treatment Registration Form for initial and continued stay funding requests.

AGENCY shall provide a responsive, 24-hour, seven day per week coverage system to ensure access to services.

**Program Performance Measures**

At a minimum, AGENCY shall track the performance measures identified below and detailed in program instructions prepared by COUNTY and incorporated into this contract by reference.

Program Goal	Performance Measure	Target # or %	Monthly Source
Maintain required access for routine, urgent and emergent appointments	Percent of individuals receiving routine initial appointments within 14 days of request	Target: 100%	Provider access reports Secret shopper calls Anecdotal information from clients and other partners, crisis lines
Ensure adequate and timely follow-up care for consumers after discharge from a hospital for mental illness	Percent of consumers who have an ambulatory mental health visit within seven (7) days of hospital discharge	Target: 90%	HSO Claims Data
Global Payment Implementation Measure All consumers receiving care after April 1, 2014 dates of service will have an authorization under new regional levels of care	Percent of consumers who have a regional level of care authorization documented in CIM by April 1, 2014  Percent of total individuals served with denied encounters for "no authorization" for service dates after April 1, 2014	Target: 100%  Target: 0%	HSO Claims Data

Program Goal	Performance Measure	Target # or %	Monthly Source
Levels of Care will be assigned accurately and with inter-rater reliability	Percent inter-rater reliability on the LOC assignment based on concurrent review of 10% of total monthly new authorizations up to a maximum of 30	Target: 75%	Agency Inter-rater reliability report  HSO inter-rater reliability concurrent review
Consumers are receiving the intensity of service that's within the LOC range	Ratio of Average Encounters Per Authorization Served by Level of Care to Target Average Encounters Served by Level of Care	Target: 75%	HSO Claims Data
Improve outcomes by the use of Treat to Target tools	Percent of consumers that have reached the target number of treatment sessions with positive outcomes Percent of consumers served that are evaluated using an outcomes measurement instrument.	Target: 50%  Target: 50%	New treat to target outcome measures developed and implemented by Health Share of Oregon.

AGENCY shall participate with COUNTY in evaluation of contracted project/service outcomes, satisfaction surveys, or performance, and to make available all information required by such evaluation process. This includes providing COUNTY with data necessary to verify consumer counts, service provision, and outcome measures.

**EXHIBIT C**

**COMPENSATION**

To receive payment AGENCY shall submit a CMS 1500 claim form to COUNTY's Third Party Administrator, Performance Health Technology Ltd (PH Tech) within 120 calendar days of the date of service in accordance with OAR 410-141-3420, "Billing and Payment". Claims may be submitted to PH Tech in either paper or electronic format.

Refer to Exhibit B, paragraph 4.d. for guidance regarding encounter submissions.

## EXHIBIT D

### STATEMENT OF GENERAL CONDITIONS

#### 1. Interpretation and Administration of Agreement

AGENCY acknowledges that this agreement between COUNTY and AGENCY is subject to the underlying Health Share of Oregon/Clackamas Risk Accepting Entity Participation Agreement between Health Share of Oregon and COUNTY, the Health Plan Services Contract between the Oregon Health Authority and Health Share of Oregon, the Oregon Revised Statutes concerning the Oregon Health Plan, and other applicable Oregon statutes and administrative rules concerning mental health services. If AGENCY believes that any provision of this agreement or COUNTY's interpretation thereof is in conflict with Federal and State statutes or regulations, AGENCY shall notify COUNTY in writing immediately.

AGENCY agrees to provide medically necessary services within the scope of its practice and license (hereinafter referred to as "services") to individuals assessed as having an eligible mental health condition specified in the Oregon Health Plan "Prioritized List of Mental Health Conditions", can benefit from those services, and as described below when authorized by COUNTY's treatment authorization process. AGENCY shall provide services in accordance with OAR 410-141-3120 "Operations and Provision of Health Services"; OAR 410-141-3420 "Billing and Payment"; and all DHS Rules in OAR Chapter 309 and any other administrative rules to which AGENCY is subject, as such rules may be amended from time to time. These laws, rules and regulations, are incorporated by reference herein to the extent that they are applicable to this agreement and required by law to be so incorporated. Services provided under this agreement are to be within the scope of AGENCY's licenses and certification, and the licenses, certifications and training of its employed and contracted staff providing direct services.

#### 2. General Performance Standards

COUNTY shall monitor services provided by AGENCY and has the right to require AGENCY's compliance with OHA and Health Share of Oregon established standards and other performance requirements relative to the quantity and quality of service and care, access to care, and administrative and fiscal management, and with all obligations and conditions stated in this agreement. AGENCY will notify COUNTY immediately in writing regarding issues related to access to care or any other potential violation of the conditions stated in this agreement.

##### a. Licenses and Certifications

By signing this agreement, AGENCY assures that all licenses and certifications required by statute or administrative rule are and will remain current and valid for all of AGENCY's employees and independent contractors providing direct service and for all of AGENCY's facilities in which services are provided. AGENCY assures that it is certified under OAR 309-012-0130 – 309-012-0220 or licensed under ORS Chapter 443 by the State of Oregon to deliver specified services. AGENCY will promptly notify COUNTY of the initiation of any action against any licenses or, if applicable, against any certifications by any certifying boards or organizations as well as any changes in AGENCY's practice ownership or business address, along with any other problem or situation that may relate to the ability of AGENCY to carry out the duties and obligations of this contract.

b. Eligibility and Authorization of Services

AGENCY shall verify eligibility and enrollment of clients prior to providing and billing for service and obtain authorization for the provision of covered services as necessary and appropriate according to COUNTY policies and procedures. AGENCY shall participate in the COUNTY concurrent review process. AGENCY understands that authorization for services will be based upon this review process.

c. Quality Assurance and Utilization Review

AGENCY shall cooperate with, and participate in, COUNTY's quality assurance and utilization review programs. AGENCY shall also participate in Health Share of Oregon quality initiatives as developed. Further, AGENCY shall have a planned, systematic, and ongoing process for monitoring, evaluating and improving the quality and appropriateness of Covered Services provided to clients.

AGENCY shall work with COUNTY staff to ensure that authorized services provided by AGENCY to clients are the most appropriate and cost efficient, and least restrictive. AGENCY staff shall make records available to COUNTY staff on site upon reasonable notice for purposes of utilization review.

d. Contractual Compliance

AGENCY shall ensure that all providers and staff employed or contracted by AGENCY who provide services to clients or are otherwise engaged in activities under this agreement are fully aware of and in compliance with the terms and conditions of this agreement.

e. Provider Appeal Process

AGENCY shall have the right to appeal actions by COUNTY or decisions concerning interpretation of the Health Share of Oregon/Clackamas Risk Accepting Entity Agreement as they apply to this agreement. Appeals shall be made in writing.

Appeals related to administrative or clinical decisions and all other matters shall be made to COUNTY Administration within thirty (30) calendar days of the date of the action being appealed. A decision shall be issued within twenty-one (21) business days of receipt of the written appeal. An appeal of that decision can be made in writing to the Director of Clackamas County Behavioral Health Division within fourteen (14) business days of the date of the decision. The Director will issue a decision within twenty-one (21) business days, and that decision will be final.

**3. Clinical Standards**

a. Clinical Guidelines

AGENCY shall adopt clinical guidelines that inform mental health practitioners, clients, family members and advocates with evidence-based information about mental illness and appropriate treatment options. Clinical guidelines should be based on a systematic evaluation of research evidence; be designed to assist, rather than dictate, clinical decision-making; and are to be applied on a case-by-case basis. Such guidelines should provide recommendations for appropriate care based on scientific evidence and professional consensus; support for professional standards, quality improvement activities and education; and a basis for comparing current practice to evidence-based best practices. AGENCY shall make such guidelines available to COUNTY upon request.



b. Outcome Measure

AGENCY shall adopt the use of a measure of clinical outcomes that demonstrates a change in client status following an episode of treatment. The measurement tool adopted shall identify changes in symptoms, functioning, quality of life, adverse events or satisfaction. AGENCY shall make information about outcome measures used available to COUNTY upon request.

c. Coordination of Care

- (1) AGENCY shall develop, implement and participate in activities supportive of a continuum of care that integrates mental health, addiction and physical health interventions in ways that are seamless and whole to the client. Integration activities may span a continuum ranging from communication to coordination to co-management to co-location to the fully integrated, person-centered health care home.
- (2) To insure appropriate coordination of services to enrolled individuals, AGENCY shall collaborate with allied agencies in the local service area, including but not limited to primary care clinics, housing authorities, chemical dependency agencies, juvenile justice, school districts, and Department of Human Resources, Child Welfare programs. AGENCY will make every effort to obtain a signed Release of Information at the onset of treatment, notifying the service partner in writing of preliminary diagnosis and prescribed medications, notifying of any major changes or medical complications that occurred during the course of treatment and notifying upon termination of treatment.
- (2) AGENCY shall coordinate with COUNTY on referral of clients to specialty behavioral health services or to a higher intensity of service. Specifically:
  - (i) AGENCY shall coordinate with COUNTY on both admission and discharge of clients to psychiatric acute care or sub-acute psychiatric care. AGENCY shall coordinate with COUNTY and the acute or sub-acute care provider on discharge planning and the development of community resources to aid in the timely discharge and community placement of the client. AGENCY shall assure an appointment with an appropriate provider within seven (7) days of discharge from acute care, sub-acute care or psychiatric residential treatment care.
  - (ii) AGENCY shall coordinate with COUNTY on referral of clients to crisis respite services, particularly as those services are used to divert the admission of the client to acute care.
  - (iii) AGENCY shall refer clients for a Level of Service Intensity Determination Screening when a higher intensity of service appears warranted.
  - (iv) AGENCY shall coordinate with COUNTY to obtain Long Term Care Determination for appropriate clients.

d. Crisis Response

AGENCY will be responsible for twenty-four hour, seven days a week crisis response for their enrolled individuals. AGENCY shall establish and follow a system for appropriate and timely response to emergency needs of individuals. During the period of service, AGENCY shall respond to all enrolled client emergencies. "Emergency" shall mean the sudden onset of a mental health condition manifesting itself by acute symptoms and one or more of the following circumstances are present: (1) the client is in imminent or potential danger of harming himself or others as a result of an eligible condition; (2) the client shows symptoms, e.g., hallucinations, agitation, delusions, etc., resulting in impairment in judgment, functioning and/or impulse control severe enough to endanger his or her own welfare or that of another person; or (3) there is an immediate need for Services as a result of, or in conjunction with, a very serious situation such as

an overdose, detoxification, potential suicide or violence. AGENCY will have a system of crisis response to individuals enrolled in their program. At a minimum, AGENCY will have a clinician available by phone for consultation at all times. This clinician shall be familiar with the case or shall have the ability to contact clinician(s) familiar with the case.

e. Standards of Care

COUNTY promotes resilience in and recovery of the clients it serves. COUNTY supports a system of care that promotes and sustains a client's recovery from a mental health condition by identifying and building upon the strengths and competencies within the person to assist them in achieving a meaningful life within their community. Consistent with these values, AGENCY shall:

- (1) Provide services in a manner that assures continuity and coordination of the health care services provided to each client;
- (2) Accept clients for treatment on the same basis that AGENCY accepts other clients and render services to clients in the same manner as provided to AGENCY's other clients. AGENCY shall not discriminate against clients because of source of payment, race, ethnicity, gender, gender identity, gender presentation, sexual orientation, national origin, ancestry, religion, creed, marital status, familial status, age, except when program eligibility is restricted to children, adults or older adults, source of income, disability and diagnosis;
- (3) Provide clients with access to services without undue delay and as soon as necessary in light of the member's mental health condition. AGENCY shall comply with access standards as set forth in OAR 410-141-3220 "Accessibility";
- (4) Conduct its practice and treat all clients using that degree of care, skill and diligence which is used by ordinarily careful providers in the same or similar circumstances in the provider's community or a similar community (see ORS 677.095);
- (5) Ensure that clients are served in the most normative, least restrictive, least intrusive and most cost effective level of care appropriate to their diagnosis and current symptoms, degree of impairment, level of functioning, treatment history, and extent of family and community supports;
- (6) Advise or advocate on behalf of clients in regard to treatment options, without restraint from COUNTY;
- (7) AGENCY shall employ a system of internal review to evaluate the care being provided within the agency, to modify service plans, adjust level of care being provided and consider duration of treatment. AGENCY will have a system of internal utilization management to assure that services are provided within the authorization maximum dollar amount, when applicable.
- (8) AGENCY shall have written policies and procedures that insure individuals receive a Notice of Action when service is denied, terminated, suspended or reduced without the client's agreement.
- (9) AGENCY shall have written policies and procedures related to consumer complaints as referenced in OAR 309-019-0125 and OAR 410-141-0260 through 410-141-0266.

#### 4. Encounter Submissions

a. Usual and Customary Charges

AGENCY shall bill COUNTY according to their Usual and Customary fee schedule. AGENCY shall base their Usual and Customary charges on a cost study that is updated annually.

b. Compensation

AGENCY shall be reimbursed at the COUNTY reimbursement rates in effect as of the date of service or billed charges, whichever is less.

c. Third Party Resources and Coordination of Benefits

AGENCY shall bill and collect from liable third party resources prior to billing COUNTY. If both the third party resource and COUNTY reimburse AGENCY for the same service, COUNTY shall be entitled to a refund for the exact amount of duplicate payment received by AGENCY.

AGENCY shall be responsible for maintaining records in such a manner so as to ensure that all moneys collected from third-party resources on behalf of clients may be identified and reported to COUNTY on an individual client basis. AGENCY shall make these records available for audit and review consistent with the provisions upon request.

If AGENCY has knowledge that a client has third-party health insurance or health benefits, or that either client or AGENCY is entitled to payment by a third party, AGENCY shall immediately so advise COUNTY.

Pursuant to OAR 410-141-3160, "Integration and Care Coordination", COUNTY reserves the right to coordinate benefits with other health plans, insurance carriers, and government agencies. COUNTY may release medical information to such other parties as necessary to accomplish the coordination of benefits in conformity with the Health Insurance Portability and Accountability Act (HIPAA) 45 CFR 164 and 42 CFR Part 2. Coordination of benefits shall not result in compensation in excess of the amount determined by this agreement, except where State laws or regulations require the contrary.

d. Encounter Data

AGENCY shall submit to COUNTY accurate and complete encounter data in the form of a CMS 1500 claim form for each contact with a client. To encounter data and receive payment, when applicable, AGENCY shall submit a CMS 1500 claim form to COUNTY's Third Party Administrator, Performance Health Technology Ltd (PH Tech). AGENCY shall use its best efforts to supply encounter data once a month, and shall in all cases, supply encounter data no later than 120 calendar days after a contact with a client in accordance with OAR 410-141-3420, "Billing and Payment". Each encounter claim shall include such information as required in the Health Share of Oregon/Clackamas Risk Accepting Entity Participation Agreement and meet specifications as a Valid Claim. AGENCY shall use the most current DSM Multi-Axial Classification System. DSM codes shall be reported at the highest level of specificity. Claims may be submitted to PH Tech in either paper or electronic format.

PH Tech shall pay AGENCY on behalf of COUNTY, by the 45<sup>th</sup> business day after a valid claim is received, fee-for-service payments as specified in section 1 above. COUNTY shall have no obligation to make payment to AGENCY if AGENCY fails to obtain a valid authorization to provide services, fails to verify eligibility for Covered Services and the individual is not an eligible client on the date of service, if the services provided are not Covered Services, or if AGENCY fails to submit fee-for-service bills within 90 calendar days of the date of service. The timely filing

requirement is extended to 12 months when there is a Third Party Resource as the primary payor and to 12 months when Medicare is primary. To be considered for payment, claims resubmission requests submitted by AGENCY must be received by PH Tech within 120 days of the date of the first denial.

d. Non-Covered Services

AGENCY shall follow OAR 410-141-3420, "Billing and Payment", when submitting fee-for-service claims for services provided to OHP Members that are not Covered Services.

e. Payment in Full

Except as expressly provided below, payments to AGENCY made by COUNTY for services provided under the terms of this agreement shall constitute payment in full. OAR 410-141-3420, "Billing and Payment", AGENCY shall not bill, charge, seek compensation, remuneration or reimbursement from, or have any recourse against OHA or any client for services contracted hereunder, either during the term of this agreement or at any time later, even if COUNTY becomes insolvent. This provision shall not prohibit collection for non-covered services that may be the responsibility of the client or any permitted co-pays, co-insurance, deductibles or any other cost sharing, if any and as applicable. AGENCY may bill and collect separately for those costs which are lawfully the responsibility of the client. When combined with all sources of payment, COUNTY's payment to AGENCY shall not exceed the reimbursement amount in effect as of the date of service.

f. Overpayments

Any payments made by COUNTY to which AGENCY is not entitled under the terms of this agreement shall be considered an overpayment and shall be refunded by AGENCY within thirty (30) calendar days of the discovery, in accordance with OAR-410-120-1280, "Billing" and OAR 410-120-1397, "Recovery of Overpayments to Providers – Recoupments and Refunds". AGENCY must not seek payment from clients for any covered services, except any coinsurance, co-payments, and deductibles expressly authorized by OAR-410-120 or OAR-410-141. A client cannot be billed for services or treatment that have been denied due to provider error (e.g. required documentation not submitted, prior authorization not obtained, non-covered diagnosis, etc.).

## 5. Staff Standards

COUNTY delegates to AGENCY the credentialing and recredentialing of employed and contracted staff who provide services to clients under this agreement. Pursuant to OAR 410-141-3120 "Operations and Provision of Health Services", AGENCY must, at a minimum, obtain and verify documents that provide evidence of primary source verification of credentials as follows:

- Appropriate education and academic degrees, as required;
- Licenses or certificates, as required;
- Relevant work history or qualifications, as required;
- Completion of a successful criminal history records check through the Oregon Law Enforcement Data System and compliant with ORS chapter 181 and OAR 407-007-0000 through 407-007-0370;
- Positive clearance by the National Practitioner Data Bank, as required;

- Positive clearance through the General Services Administration System for Award Management (SAM) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General's List of Excluded Individuals/Entities at time of hire and monthly thereafter.

AGENCY shall not permit any person to provide services under this agreement if that person is listed on the non-procurement portion of the General Service Administration's SAM in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (2 CFR Part 180).

In addition, AGENCY shall not permit any person to provide services under this agreement who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 "Program Integrity – Medicare and State Health Care Programs Subpart B". AGENCY may not submit claims for services provided after the date of such exclusion, conviction or termination.

AGENCY assures that all AGENCY employees and independent contractors providing direct service under this agreement will work within the scope of their credentials and any applicable licensure or registration, or criteria for certification if not required to be licensed or registered pursuant to OAR 410-141-3120. AGENCY shall not allow services to be provided by an employee or independent contractor who does not have a valid license or certification required by state or federal law.

AGENCY ensures that all personnel providing services to clients under this agreement are properly trained and qualified to render the services they provide. AGENCY shall arrange for continuing education of personnel rendering services under this agreement as necessary to maintain such competence and satisfy all applicable licensing, certification or other regulatory requirements.

COUNTY reserves the right to review, upon reasonable notice and at AGENCY's site, the actual documents describing the credentials of AGENCY's employees and independent contractors for purposes of verification.

## **6. Recordkeeping**

### **a. Clinical Records, Access and Confidentiality**

- (1) **Clinical Records.** AGENCY shall ensure maintenance of recordkeeping consistent with OAR 410-141-3180, "Record Keeping and Use of Health Information Technology." The clinical record shall fully document the mental condition of the client and the services received by the client under this agreement. All clinical records relevant to this agreement shall be retained for at least seven (7) years after the date of clinical services for which claims are made, encounters reported, final payment is made, or all pending matters are closed, whichever time period is longer. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the seven-year-period, the records must be retained until all issues arising out of the action are resolved or until the end of the seven-year-period, whichever is later.
- (2) **Government Access to Records.** At all reasonable times, AGENCY and its subcontractors shall provide the Center for Medicare and Medicaid Services (CMS), the Comptroller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice Medicaid Fraud Unit, Oregon Department of Human Services Office of Payment Accuracy and Recovery, OHA, COUNTY and all their duly authorized representatives the right of access to AGENCY's financial (including all accompanying billing records), clinical/medical, and personnel records that are directly pertinent to this agreement in order to monitor and evaluate cost, performance, compliance, quality, appropriateness and timeliness of services

provided, and the capacity of AGENCY to bear the risk of potential financial losses. These records shall be made available for the purpose of making audit, examination, excerpts and transcriptions. AGENCY shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit.

- (3) Confidentiality and Privacy of Records. The confidentiality of information concerning clients is subject to State and Federal guidelines, including but not limited to State (ORS 179.505 through 179.507, ORS 192.502, ORS 411.320, ORS 433.045(3)) and Federal (42 CFR Part 2, 42 CFR Part 431, Subpart F, 45 CFR 205.50) confidentiality laws and regulations. AGENCY and COUNTY shall not use, release, or disclose any information regarding a client for any purpose not directly connected with the administration of this agreement or under Title XIX of the Social Security Act, except with the written consent of the client or, if appropriate, the client's parent or guardian, or unless otherwise authorized by law. AGENCY shall ensure that its agents, employees, officers and subcontractors with access to client records understand and comply with this confidentiality provision.
- (4) Release of Information. AGENCY shall assure that COUNTY and any other cooperating health service providers have access to the applicable contents of the client's clinical record when necessary for use in the diagnosis or treatment of the client, to the extent such access is permitted by law. AGENCY shall release mental health service information requested by COUNTY or a provider involved in the care of a client within ten (10) business days of receiving a signed release. Except as provided in ORS 179.505(9), AGENCY shall provide the client or the client's legal guardian access to client's record and provide copies within ten (10) business days of any request for copies.
- (5) External Review. AGENCY shall cooperate with OHA by providing access to records and facilities for the purpose of an annual external, independent professional review of the quality outcomes and timeliness of, and access to, services under this agreement in accordance with 42 USC Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2); and 42 CFR 457.950(a)(3).
- (6) Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving OHP assistance and shall furnish such information to any State or federal agency responsible for administering the OHP program regarding any payments claimed by such person or institution for providing OHP Services as the State or federal agency may from time to time request. 42 USC Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2); and 42 CFR 457.950(a)(3).

b. Financial Records

- (1) AGENCY shall establish and maintain policies and procedures related to financial management and financial records consistent with Generally Accepted Accounting Principles. AGENCY shall make such policies and procedures available to COUNTY upon request.
- (2) AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this agreement available to COUNTY upon request.
- (3) COUNTY shall conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this agreement. AGENCY agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of AGENCY which are pertinent to this agreement to ensure appropriate expenditure of funds under this agreement. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

- (4) AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the Independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy OAR 801-030-0005, the independence rules contained within Governmental Auditing Standards (2011 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.
- (5) AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.
- (6) Limited Scope and Full Audits shall be completed within nine (9) months of the close of AGENCY's fiscal year. Audit reports, including the Management Letter associated with the audit shall be submitted to COUNTY within two weeks from the date of the report. Failure to submit required audit reports and Management Letters shall be cause for withholding of contract payment until audits are submitted.

## 7. Reporting

### a. Abuse Reporting

AGENCY shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if AGENCY were a mandatory abuse reporter. If AGENCY is not a mandatory reporter by statute, these reporting requirements shall apply during work hour only. AGENCY shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

### b. Behavioral Health Electronic Data System

AGENCY shall participate in the Oregon Health Authority (OHA)'s Enhanced Data Capture for all clients receiving Covered Services under this agreement. AGENCY shall submit all data to OHA via formats approved by OHA. AGENCY shall submit data in accordance with OHA timelines.

### c. Delivery System Network (DSN) Provider Capacity Report

AGENCY shall submit the DSN Provider Capacity report (see Attachment 1) to COUNTY in the prescribed format within thirty (30) days of the effective date of this agreement, indentifying all staff and independent contractors who will provide services to clients under this agreement. In addition, the DSN Provider Capacity Report shall be updated and resubmitted monthly to COUNTY.

### d. Access to Care

AGENCY shall submit the online regional access report to COUNTY in the prescribed format by the 15<sup>th</sup> of the month following services delivered.

## 8. Monitoring

### a. Agreement Compliance Monitoring

COUNTY and OHA shall conduct agreement compliance and quality assurance monitoring related to this agreement. AGENCY shall cooperate with COUNTY and OHA in such monitoring. COUNTY shall provide AGENCY twenty (20) business days written notice of any agreement compliance and quality assurance monitoring activity that requires any action or cooperation by AGENCY. Notice of monitoring shall include the date the monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

Should AGENCY found to be out of compliance with any requirement of this agreement, the following actions may be taken by COUNTY until the issue is resolved:

- Request a conference of the parties to determine the need for technical assistance
- Require a corrective action plan
- Disallow referral of new clients to AGENCY
- Put AGENCY on probationary status and suspend billing authority

Should the issue remain unresolved, COUNTY may consider AGENCY in breach and may terminate this agreement.

### b. External Quality Review

AGENCY agrees to participate with COUNTY in any evaluation project or performance report as designed by COUNTY or applicable State or Federal agency. AGENCY shall make all information required by any such evaluation project or process available to COUNTY or COUNTY's designee within thirty (30) business days of request.

## 9. Fraud and Abuse

AGENCY shall comply with, and as indicated, cause all employees and subcontractors to comply with, the following requirements related to fraud and abuse. All elements of this Fraud and Abuse exhibit apply to services provided to uninsured, indigent individuals with the exception of reports to the Medicaid Fraud Control Unit (MFCU) which do not apply to indigent services.

### a. General

- (1) AGENCY, its employees and subcontractors shall comply with all provisions of the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any Oregon laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in 42 USC 1320a-7b).
- (2) AGENCY, its employees and subcontractors shall comply with Oregon laws pertaining to false claims including the following: ORS 411.670 to 411.690 (submitting wrongful claim or payment prohibited; liability of person wrongfully receiving payment; amount of recovery); ORS 646.505 to 646.656 (unlawful trade practices); ORS chapter 162 (crimes related to perjury, false swearing and unsworn falsification); ORS chapter 164 (crimes related to theft); ORS chapter 165 (crimes involving fraud or deception), including but not limited to ORS 165.080 (falsification of business records) and ORS 165.690 to 165.698 (false claims for health care payments); ORS 659A.199 to 659A.224 (whistle blowing); OAR 410-120-1395 to 410-120-1510 (program integrity, sanctions, fraud and abuse); and common law claims



founded in fraud, including Fraud, Money Paid by Mistake and Money Paid by False Pretenses.

- (3) AGENCY shall include information in its employee handbooks or other appropriate documents on laws described above, regarding the rights of employees to be protected as whistleblowers.
- (4) AGENCY shall further have policies and procedures for detecting and preventing fraud, waste and abuse that shall, at a minimum, include a process for monitoring and auditing files, claims and staff performance.
- (5) Entities receiving \$5 million or more annually (under this contract and any other OHP contract) 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 USC § 1396a(a)(68).
- (6) Certify when submitting any claim for the provision of OHP services that the information submitted is true, accurate and complete. AGENCY shall acknowledge AGENCY'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.

b. Fraudulent Billing and False Claims

- (1) AGENCY will report verified and suspected cases of fraud and abuse to the Medicaid Fraud Control Unit (MFCU) and COUNTY within five (5) business day of discovery.
- (2) If it is determined that services billed by AGENCY were fraudulently billed, or that a false claim was submitted, or that an instance of abuse has occurred, the following disciplinary actions may be taken by COUNTY:
  - If abuse is determined, consider restitution of funds based on the severity of the abuse identified.
  - If fraud is determined or a false claim verified, require restitution of funds.
  - If the action identified is determined to be non-intentional, require a corrective action plan
  - Put AGENCY on probationary status and suspend billing authority until the issue is resolved
  - Termination of this agreement
- (3) COUNTY shall promptly refer all verified cases of Medicaid fraud and abuse to the MFCU, consistent with the Memorandum of Understanding between the State of Oregon Department of Human Services and the MFCU. COUNTY shall also refer cases of suspected Medicaid fraud and abuse to the MFCU prior to verification.

(4) Participation of Suspended or Excluded Providers

AGENCY shall ensure that Covered Services may not be provided to clients by the following persons (or their affiliates as defined in the Federal Requisition Regulations):

- Persons who are currently suspended, debarred or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-

procurement activities under regulations issues pursuant to Executive Order 12549 or under guidelines implementing such order; and

- Persons who are currently excluded from Medicaid participation under section 1128 or section 1128A of the Act; and
- Persons who are currently excluded from providing services under the Oregon Medical Assistance Program.

c. Examples of fraud and abuse that support referral to the MFCU and COUNTY

- (1) AGENCY who consistently demonstrates a pattern of intentionally reporting encounters or services that did not occur. A pattern would be evident in any case where 20% or more of sampled or audited services are not supported by documentation in the clinical records. This would include any suspected case where it appears that the provider knowingly or intentionally did not deliver the service or goods billed;
- (2) AGENCY who consistently demonstrates a pattern of intentionally reporting overstated or up coded levels of service. A pattern would be evident by 20% or more of sampled or audited services that are billed at a higher-level procedure code than is documented in the clinical records;
- (3) Any suspected case where the AGENCY intentionally or recklessly billed COUNTY more than the usual charge to non-Medicaid recipients or other insurance programs;
- (4) Any suspected case where the AGENCY purposefully altered, falsified, or destroyed clinical record documentation for the purpose of artificially inflating or obscuring his or her compliance rating or collecting Medicaid payments otherwise not due. This includes any deliberate misrepresentation or omission of fact that is material to the determination of benefits payable or services which are covered or should be rendered, including dates of service, charges or reimbursements from other sources, or the identity of the client or provider;
- (5) Providers who intentionally or recklessly make false statements about the credentials of persons rendering care to clients;
- (6) Providers who knowingly charge clients for services that are covered services or intentionally balance-bill a client the difference between the total fee-for-service charge and COUNTY's payment to the AGENCY, in violation of OHA rules.

d. Reporting suspected and verified cases of fraud or abuse

When a verified case of fraud or abuse exists, AGENCY will report the following information to the MFCU and COUNTY within five (5) business day of discovery of the suspected activity:

- Provider Name, Oregon Medicaid Provider Number, address and phone
- Type of provider
- Source and nature of complaint
- The approximate range of dollars involved
- The disposition of the complaint when known
- Number of complaints for the time period.

**Contact Information**

Report to: Medicaid Fraud Control Unit (MFCU)  
Phone: (971)673-1880  
Fax: (971)673-1890  
Address: 1515 SW 5th Ave., Suite 410, Portland, OR 97201

**Contact Information**

Report to: Clackamas Behavioral Health Division  
Contact: Compliance Policy Analyst  
Phone: (503)742-5335  
Fax: (503)742-5304  
Address: 2051 Kaen Road, Suite 367, Oregon City, OR 97045

**10. Compliance with Applicable Law**

AGENCY shall comply and, as indicated, cause all employees and subcontractors to comply with the following Federal requirements. 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.

a. Miscellaneous Federal Provisions

AGENCY shall comply and cause all subcontractors to comply with all federal laws, regulations and executive orders applicable to this Contract or to the delivery of Work. Without limiting the generality of the foregoing, AGENCY expressly agrees to comply and cause all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) 45 CFR Part 84 which implements, Title V, 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 law governing operation of CMHPs, including without limitation, 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 this Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 USC 14402.

b. Equal Employment Opportunity

If this Contract, including amendments, is for more than \$10,000, then AGENCY shall comply and cause 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).

c. Non-Discrimination

(1) AGENCY shall comply with all federal and State laws and regulations including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities) the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and all amendments to those acts and all regulations promulgated thereunder. AGENCY shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.

- (2) AGENCY shall comply with and cause its subcontractors to comply with the integration mandate in 28 CFR 35.130(d), Title II of the Americans with Disabilities Act and its implementing regulations published in the Code of Federal Regulations.

d. Advance Directives

AGENCY shall provide adult clients with written information on Advance Directive policies and include a description of Oregon law. The written information provided by AGENCY must reflect changes in Oregon law as soon as possible, but no later than 90 days after the effective date of any change to Oregon law. AGENCY must also provide written information to adult clients with respect to the following:

- (1) Their rights under Oregon law;
- (2) AGENCY's policies respecting the implementation of those rights, including a statement of any limitation regarding the implementation of Advance Directives as a matter of conscience.
- (3) AGENCY must inform clients that complaints concerning noncompliance with the Advance Directive requirements may be filed with OHA.

e. Drug Free Workplace

AGENCY shall maintain and cause all subcontractors to maintain a drug-free workplace and shall notify employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in AGENCY's workplace. AGENCY shall establish a drug-free awareness program and provide each employee to be engaged in the provision of services under this agreement with information about its drug-free workplace program. AGENCY will further comply with additional applicable provisions of the Health Share of Oregon Core Contract.

f. Clinical Laboratory Improvement

If applicable to Scope of Work, AGENCY shall and shall ensure that any Laboratories used by AGENCY shall comply with the Clinical Laboratory Improvement Amendments (CLIA 1988), 42 CFR Part 493 Laboratory Requirements and ORS 438 (Clinical Laboratories, which require that all laboratory testing sites providing services under this agreement shall have either a Clinical Laboratory Improvement Amendments (CLIA) certificate of waiver or a certificate of registration along with a CLIA identification number. Those Laboratories with certificates of waiver will provide only the eight types of tests permitted under the terms of their waiver. Laboratories with certificates of registration may perform a full range of laboratory tests.

g. Clean Air, Clean Water, EPA Regulations

If this agreement, including amendments, exceeds \$100,000 then AGENCY shall comply and cause 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 OHA, DHHS and the appropriate Regional Office of the Environmental Protection Agency. AGENCY shall include and cause all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

h. Energy Efficiency

AGENCY shall comply and cause 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).

i. Resource Conservation and Recovery

AGENCY shall comply and cause 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 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 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.

j. Audits

AGENCY shall comply and, if applicable, cause a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."

k. Truth in Lobbying

AGENCY certifies, to the best of the AGENCY's knowledge and belief that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of AGENCY, 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.
- (2) 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, AGENCY shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- (3) AGENCY shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- (4) This certification is a material representation of fact upon which reliance was placed when this Contract 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.

l. Conflict of Interest Safeguards

- (1) AGENCY and its subcontractors shall have in effect safeguards, including, but not limited to, policies and procedures against conflict of interest with any State of Oregon Department of

Human Services employees or other agents of the State who have responsibilities relating to this agreement. These safeguards must be at least as effective as the safeguards specified in Section 27 of the Office of Federal Procurement Policy Act (41 USC 423) and must include safeguards to avoid conflicts that could be prohibited under 18 USC 207 or 208 if the Department of Human Services employee or agent was an officer or employee of the United States Government. For purposes of implementing policies and procedures required in this section, AGENCY shall apply the definitions in the State Public Ethics Law as if they applied to AGENCY for "Actual conflict of interest," ORS 244.020(1), "potential conflict of interest," ORS 244.020(14), and "client of household," ORS 244.020(12).

- (2) AGENCY shall not offer to any DHS or OHA employee (or any relative or member of their household) any gift or gifts with an aggregate value in excess of \$50 during a calendar year or any gift of payment of expenses for entertainment. "Gift" for this purpose has the meaning defined in ORS 244.020(6) and OAR 199-005-0001 to 199-005-0035.
- (3) "AGENCY" for purposes of this section includes all AGENCY's affiliates, assignees, subsidiaries, parent companies, successors and transferees, and persons under common control with the AGENCY; any officers, directors, partners, agents and employees of such person; and all others acting or claiming to act on their behalf or in concert with them.
- (4) AGENCY shall apply the definitions in the State Public Ethics Law, ORS 244.020, for "actual conflict of interest", "potential conflict of interest", "relative" and "member of household".

m. HIPAA Compliance

- (1) The parties acknowledge and agree that each of OHA and AGENCY is a "covered entity" for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA). OHA and AGENCY shall comply with HIPAA to the extent that any work or obligations of OHA arising under this agreement are covered by HIPAA.
- (2) AGENCY shall develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this agreement and with HIPAA. AGENCY shall comply and cause all subcontractors to comply with HIPAA and all the HIPAA provisions listed in the Health Share of Oregon Core Contract.
- (3) HIPAA Information Security. AGENCY shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that Member Information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this agreement. Security incidents involving Member Information must be immediately reported to DHS' Privacy Officer.





9

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Board of County Commissioner  
Clackamas County

Members of the Board:

**Approval of a Contract with D & T Excavation, Inc. for the  
Barlow Road: Zimmerman Rd Intersection (Clackamas County)**

<b>Purpose/Outcomes</b>	This contract will provide funding for construction of the Barlow Road: Zimmerman Rd Intersection Improvement Project.
<b>Dollar Amount and Fiscal Impact</b>	The contract value is \$1,219,470.08
<b>Funding Source</b>	92.22% High Risk Rural Roads Program (HRRRP): \$1,124,595.31 7.78% County Road Fund Match: \$94,874.77
<b>Safety Impact</b>	This intersection has been identified on the County's Safety Priority Index System (SPIS) list as having significant safety issues and has been the location of several serious or fatal motor vehicle accidents. This project will eliminate the poor sight distance that exists at the intersection, which contributes to its poor safety rating.
<b>Duration</b>	Substantial completion 10/31/14; Contract signing through 10/31/15
<b>Previous Board Action</b>	03/27/08: ODOT/County Local Agency Certification Master Agreement No. 24688 executed. 09/10/09: ODOT/County Supplemental Project Agreement No. 25070 executed. 02/10/11: ODOT/County Amendment #1 to Supplemental Project Agreement No. 25070 executed. 04/26/12: ODOT/County Amendment #2 to Supplemental Project Agreement No. 25070 executed. 04/23/13: ODOT/County Amendment #3 to Supplemental Project Agreement No. 25070 executed.
<b>Contact Person</b>	Kerri Whitlow, Project Manager – DTD Engineering 503-742-4680

**BACKGROUND:**

Barlow Road at the Zimmerman Road Intersection has been identified on the County's Safety Priority Index System (SPIS) list as having significant safety issues and has been the location of several serious or fatal motor vehicle accidents. The County received a High Risk Rural Roads Program (HRRRP) grant to carry out safety improvement projects on rural roads with identified safety issues to aid in reducing traffic fatalities and serious injuries. This project will eliminate the poor sight distance that exists to the south of the intersection by redesigning the vertical curves, widening the shoulders and clearing sight distance obstructions. The project is 92.22% funded by the HRRRP and the County Road Fund match is 7.78%.

On April 28, 2014, staff advertised the Barlow Road: Zimmerman Rd Intersection (Clackamas County) Project for competitive bids. The County received thirteen bids. The lowest responsive and responsible bidder was D & T Excavation, Inc. with a bid of \$1,219,470.08. The project is expected to begin at contract signing and be substantially completed by October 31, 2014. The contract will be complete October 31, 2015 which allows for planting establishment.



This contract has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

Staff respectfully recommends approval of the contract with D & T Excavation, Inc. for the Barlow Road: Zimmerman Rd Intersection (Clackamas County) Project.

Sincerely,



M. Barbara Cartmill  
DTD Director

Placed on the June 19, 2014 agenda by the Purchasing Division.

For information on this issue or copies of attachments  
please contact Kerri Whitlow at (503) 742-4680



LANE MILLER  
MANAGER

**PURCHASING DIVISION**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

June 19, 2014

## MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of **June 19, 2014** this contract with D & T Excavation, Inc for the **Barlow Road: Zimmerman Rd Intersection (Clackamas Co) Project** for the Clackamas County DTD Engineering Division. This project was requested by Kerri Whitlow, Project Manager. Bids were requested for all the materials and manpower necessary to complete specified work on the above-mentioned project. This project was advertised in accordance with ORS and LCRB Rules. Twenty-five bid packets were sent out and thirteen bids were received: D & T Excavation - \$1,219,470.08; Elting Northwest - \$1,278,489.75; North Santiam Paving - \$1,349,188.95; Westech Construction - \$1,406,555.41; Eagle-Elsner - \$1,417,052.55; K & E Excavating - \$1,426,018.10; P.C.R. - \$1,434,341.00; Canby Excavating - \$1,487,130.00; Kerr Contractors Oregon - \$1,551,300.00; 3 Kings Environmental - \$1,574,654.00; Dirt & Aggregate Interchange - \$1,618,888.00; Jeff Kersey Construction - \$1,678,857.80; Nutter Corporation - \$1,732,676.22 . After review of all bids, D & T Excavation, Inc was determined to be the lowest responsive and responsible bidder. The total contract amount is not to exceed \$1,219,470.08. All work is to be completed by October 31, 2014 with a contract completion date of October 31, 2015 to allow for seed and plant establishment. This contract has been reviewed and approved by County Counsel. Funds for this project are covered under budget line 416-2433-02101-481180-22171 for fiscal years 2013/2014, 2014/2015 and 2015/2016.

Respectfully Submitted,

Kathryn M. Holder  
Purchasing Staff

10

# Approval of Previous Business Meeting Minutes:

## June 5, 2014

(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, June 5, 2014 - 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**

### **I. CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **II. CITIZEN COMMUNICATION**

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

1. Lev Kirschner, Rhododendron – spoke regarding the Boulder Timer Sale.  
~Board Discussion~
2. Jim Betty, Lake Oswego – issues regarding the process for Code Enforcement issues.  
~Board Discussion~
3. Les Poole, Gladstone – spoke regarding the recent election and negative flyers.  
~Board Discussion~

### **III. DISCUSSION ITEMS**

**~NO DISCUSSION ITEMS SCHEDULED**

### **IV. CONSENT AGENDA**

Chair Ludlow asked the Clerk to read the Consent Agenda by title.

Commissioner Smith asked for Cindy Becker, Health, Housing & Human Services to speak about consent item A.3 – and answer some clarifying questions.

Cindy Becker and Rich Swift, Health, Housing and Human Services gave background information for this item.

~Board Discussion~

Chair Ludlow 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 New Intra-Agency Agreement with Clackamas County Health Centers Division (CCHCD), for the School Based Health Centers (SBHC) Mental Health Expansion Project for Oregon City and Sandy High Schools – *Public Health*

2. Approval of a Renewal Revenue Intergovernmental Agreement with the City of Lake Oswego, for Medical Direction for the Fire Dept. & Communications Center - *Public Health*
3. Resolution No. **2014-45** Approving an Inter-fund Loan Agreement from the General Fund to H3S to Support Health Center Operations – *Health Centers*

4. Approval of an Intergovernmental Agreement with the City of Estacada for the SW Laurel and SW Maple Street Improvements Project – *Housing & Community Development*

**B. Department of Transportation & Development**

1. Approval of Intergovernmental Agreement No. 29903 with Oregon Department of Transportation for Right-of-Way Services for the SE 122<sup>nd</sup> and SE 132<sup>nd</sup> Avenue Sidewalk Connections Project
2. Approval of Amendment No. 1 to Intergovernmental Agreement No. 27884 with Oregon Department of Transportation for 2011 Emergency Relief Program Project Funding

**C. Department of Emergency Management**

1. Approval of FY 2011 Urban Area Security Initiative Local Grant Agreement with the City of Lake Oswego
2. Approval of FY 2013 Emergency Management Performance Grant Amendment No. 1 with the State of Oregon

**D. Elected Officials**

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

**E. Juvenile Department**

1. Approval of an Amendment to the Intergovernmental Agreement with Metro for Litter Removal by Juvenile Work Crews
2. Approval to Apply for the Edward Bryne Memorial Justice Assistance Grant for the Juvenile Department

**V. COUNTY ADMINISTRATOR UPDATE**

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

**VI. COMMISSIONERS COMMUNICATION**

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

**MEETING ADJOURNED – 11:11 AM**

**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 by the following Saturday. 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)



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**

2051 KAEN ROAD | OREGON CITY, OR 97045

June 19, 2014

Board of County Commissioner  
Clackamas County

Members of the Board:

**Stephen L. Madkour**  
County Counsel

**Kimberley Ybarra**  
**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Christina Thacker**  
Assistants

Intergovernmental Agreement to Provide Judicial Services

<b>Purpose/Outcomes</b>	An Intergovernmental Agreement (IGA) between the County and the City of Damascus to transfer the City's Municipal Court docket to the County's Justice Court.
<b>Dollar Amount and Fiscal Impact</b>	The IGA provides for cost sharing between the City and County. The cost to implement the IGA would be internal to the county involving staff time and resources.
<b>Funding Source</b>	No new funding
<b>Safety Impact</b>	The orderly administration of judicial resources is matter of county concern.
<b>Duration</b>	The IGA will be effective as soon as both the City and County agree to the terms and execute the Agreement. The IGA is effective until termination by the parties or breach.
<b>Previous Board Action</b>	The Board met in a June 11, 2014 study session on this matter. It was agreed to place the matter on the consent agenda at the next available business meeting.
<b>Contact Person</b>	Karen Brisbin, Justice Court Justice of the Peace, and Stephen L. Madkour, County Counsel

**BACKGROUND:**

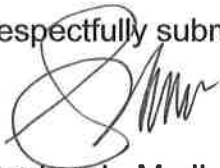
The City of Damascus operates a Municipal Court, which hears cases arising from violations of City Charter or ordinance and some traffic offenses. The City will be closing its Municipal Court and wishes to transfer jurisdiction of that court to the County's Justice Court.

The parties have prepared an Intergovernmental Agreement that describes the relationship and obligation of the parties in this venture. The County's Justice Court and the Justice of the Peace shall assume jurisdiction of all violations that are pending adjudication in the municipal court, as well as the authority to enforce all existing municipal court judgments and orders entered by the municipal court. The IGA provides for a 50/50 fine-splitting arrangement.

**RECOMMENDATION:**

The Justice of the Peace and staff recommend the Board of County Commissioners approve an IGA and authorize the County Administrator to sign on behalf of the County. The attached IGA is a draft and may be revised.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Madkour', written over a circular stamp or mark.

Stephen L. Madkour  
County Counsel

Attachment

## INTERGOVERNMENTAL AGREEMENT TO PROVIDE JUDICIAL SERVICES

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into as of the last date of signature indicated below (the "Effective Date"), by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and the City of Damascus ("City"), an Oregon municipal corporation (collectively, the "Parties" and individually "Party").

### RECITALS

- A. Pursuant to ORS Chapter 190.010, governmental entities such as County and City are authorized to enter into written agreements for the performance of any or all functions and activities that either Party has the authority to perform on its own.
- B. The City currently performs judicial services through its Municipal Court. The County currently performs judicial services through its Justice Court.
- C. Any City may enter into an agreement pursuant to ORS 51.035-.037, and ORS 190.010 with a County in which a Justice of the Peace district is located for the provision of judicial services. A Justice of the Peace providing services to a City pursuant to such an agreement shall have all judicial jurisdiction, authority, powers, functions and duties of the Municipal Court of the City, the judges thereof with respect to all or any violations of the Charter or Ordinances of the City;
- D. The City is wholly within the jurisdiction boundaries of the County and wholly within the Justice of the Peace District for Clackamas County;
- E. The Justice Court is a state court authorized by Article VII, Sections 1 and 2 of the Oregon Constitution;
- F. Under Damascus Charter Section 35(G), the City may transfer functions of the municipal court to a state court, such as the Justice Court; and
- G. City and County have deemed it to be their mutual advantage and in the best interest of their citizens and residents to enter into this Agreement for the purposes of providing judicial services and the Justice Court shall have all the judicial jurisdiction, authority, powers, functions and duties of the Municipal Court of the City and the judges thereof with respect to all or any violations of the Charter or Ordinances of the City.

NOW THEREFORE, the Parties agree as follows:



## TERMS

1. **Services Provided.** While this Agreement is in effect, the County, by way of its Justice of the Peace and Justice Court, shall provide judicial services to the City, and shall have and exercise the judicial jurisdiction, authority, powers, functions, and duties of the Municipal Court of the City and the judges thereof with respect to all or any violations of Charter or Ordinances of the City. The Parties further agree that the Justice Court will not hear any matters that would require the provision of indigent counsel to a defendant.
  - 1.1 The Justice Court and the Justice of the Peace shall assume jurisdiction of all violations that are pending adjudication in the municipal court, as well as the authority to enforce all existing municipal court judgments and orders entered by the municipal court before the effective date of this Agreement.
  - 1.2 The Justice Court and the Justice of the Peace shall assume jurisdiction over all matters that concern the enforcement of any violations of the Charter or Ordinances of the City.
  - 1.3 Except as otherwise provided in this Agreement, the County shall provide all necessary court personnel, equipment and supplies and pay all expenses incurred in connection with Justice Court operations, including prosecutions under provisions of the City Charter and Ordinances, except the following expenses of City Charter or Ordinances prosecutions which shall be paid by the City: the services of a prosecuting attorney, witness fees and expenses, interpreter fees and expenses, all costs, fees and expenses of trials. Both parties to this Agreement understand that responsibility for prosecuting all City Charter and Ordinance violations shall be with the City.
2. **Payment.** After paying the replacement fine, assessments, and other sums, as required by state law, the County shall receive  $\frac{1}{2}$  of all fines and forfeited bail collected, and all fees collected on municipal court judgments enforced by the Justice Court under terms of this Agreement and the City shall receive the other  $\frac{1}{2}$  of fines and forfeited bail collected.
  - 2.1 For City Charter or Ordinance violations, after paying the replacement fine, assessments, and other sums, as required by state law, the County shall receive  $\frac{1}{2}$  of all fines and forfeited bail collected, and all fees collected on judgments entered in the Justice Court; the City shall receive the other  $\frac{1}{2}$  of fines and forfeited bail collected on such judgments.

- 2.2 Justice Court shall provide a quarterly accounting to the City for sums collected on judgments for fines and forfeited bail collected on all judgments and transfer the City's proportional share of said funds to the City.
- 2.3 The City shall be responsible for the cost to physically transport all case files from Municipal Court to Justice Court. If the files are recorded or maintained in electronic format, then the City shall be responsible for the cost to have those files converted to a format usable by the Justice Court, or provide the Justice Court with access to the City's software, either by way of license or added user. The City shall train or be responsible for the cost to train Justice Court staff on the use of the software to access the Municipal Court files.
3. **Police Services.** The City contracts with the Clackamas County Sheriff's Office for police services. The City agrees that while this Agreement is in force, all citations initiated by or filed by the Clackamas County Sheriff or Sheriff's Deputies for traffic violation offenses that occur within the City shall be deemed to be prosecutions by a City police officer for the purpose of ORS 153.645.
4. **Effective Date.** This Agreement is effective when both parties have executed it. Upon effective execution, this Agreement supersedes and replaces all previous agreements pertaining to Justice of the Peace services entered into between the City and the County.
5. **Staffing.** Parties shall continue to serve as employer of their respective employees.
6. **Termination of Agreement.** This Agreement shall continue in effect so long as there is a Justice Court and the Justice of the Peace District for Clackamas County, or until terminated by either party as provided herein. Either Party may terminate this Agreement by providing ninety (90) days notice in writing to the other Party. In the event of termination of the Agreement, City shall pay all costs and fees required under this Agreement which are incurred, up until the date of termination. Such termination shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination. If County terminates, it will transfer to City any documents and court files for cases filed in Justice Court by the City and take such other transition steps as may be reasonably necessary to assist City.
7. **Amendment Provisions.** The terms of this Agreement may be amended by mutual agreement of the Parties. Any amendment shall be in writing,

shall refer specifically to this Agreement, and shall be executed by the Parties.

- 8. Defense and Indemnification.** Subject to the Oregon Constitution and the limits of the Oregon Tort Claims Act, each Party agrees to hold harmless, defend, and indemnify the other Party, its officers, employees and agents against any and all claims, demands, actions or suits (including all attorneys' fees and costs) arising from this Agreement where the claim, suit, action, loss, damage, injury or liability is attributable to the acts or omissions of the indemnifying Party, its officers, employees or agents. Nothing in this section shall require a Party to indemnify the other Party from liability arising from the sole negligence of the other Party, its officers, employees, or agents.
- 9. Governing Law and Forum.** The Parties expressly agree that this Agreement shall be governed and interpreted in accordance with the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof. Any litigation between the County and the City 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 District of Oregon.
- 10. Assignment.** Neither party shall assign this Agreement, in whole or in part except by operation of law, or any right or obligation hereunder, without the prior written approval of the other, which may be granted or withheld in its sole and absolute discretion.
- 11. Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the intentions of the parties to the maximum extent possible.
- 12. Integration.** This Agreement contains the entire agreement between the County and the City on this subject matter and supersedes all prior written or oral discussions or agreements.
- 13. Waiver.** The County and the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

**14. Notice.** Any notice under this Agreement shall be in writing and shall be effective when actually delivered or when deposited in the mail, addressed to the Parties as follows:

City: City Manager  
City of Damascus  
19920 SE Highway 212  
Damascus, OR 97089

County: County Administrator  
Clackamas County  
2051 Kaen Road  
Oregon City, OR 97045

**City of Damascus:**

**Clackamas County:**

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

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

Title: City Manager of Damascus

Title: County Administrator

Date: June \_\_, 2014

Date: June \_\_, 2014



DAN JOHNSON  
MANAGER

**DEVELOPMENT AGENCY**

**DEVELOPMENT SERVICES BUILDING**  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

June 19, 2014

Development Agency Board  
Clackamas County

Members of the Board:

Approval of Landlord Estoppel Certificate, Consent to Change in Ownership, and Waiver and Consent forms for Oregon Iron Works, Inc.

<b>Purpose/ Outcomes</b>	Authorization to approve a Landlord Estoppel Certificate, Consent to Change in Ownership, and Waiver and Consent forms proposed by Oregon Iron Works, Inc to effectuate the merger with Vigor Industrial.
<b>Dollar Amount and Fiscal Impact</b>	No funding considered as a part of this property transaction.
<b>Funding Source</b>	Not Applicable
<b>Safety Impact</b>	Not Applicable
<b>Duration</b>	Not Applicable
<b>Previous Action</b>	September 24, 2009 Business Meeting – Lease Approval
<b>Contact Person</b>	Dan Johnson, Manager – Development Agency 503-742-4325 or danjoh@co.clackamas.or.us
<b>Contract No.</b>	Not Applicable

**BACKGROUND:**

On November 10, 2010 the Development Agency entered into a ground lease with Oregon Iron Works for construction of a laydown yard and streetcar facility.

Last month Oregon Iron Works (OIW) and Vigor Industrial (Vigor) announced the companies are merging to unite their strengths in advanced manufacturing, shipbuilding and ship repair. According to representatives from OIW and Vigor, OIW will become a wholly owned subsidiary of Vigor Industrial. OIW and Vigor have further represented that the current facilities in Clackamas will not be affected by the merger, and will continue to operate in substantially the same manner.

With any merger of this nature, certain agreements are necessary to memorialize the new joint interest in the assets and interests of the companies. Along these lines, representatives from OIW have requested the Development Agency execute a Landlord Estoppel Certificate, Consent to Change in Ownership, and Landlord's Waiver and Consent. The following paragraphs provide a summary of the purpose of each of these documents.

Landlord Estoppel Certificate: The purpose of this document is to verify the terms of the lease and affirm no breach or default by the current lessee. See Attachment A.

Consent to Change in Ownership: Pursuant to the terms of the lease, any change in ownership requires consent by the Agency. The current lease speaks to the ability to transfer to a subsidiary or other entity majority owned by Lessee or a majority of Lessee's current shareholders. See Attachment B.

Landlord's Waiver and Consent: This document relates to the financial relationship of the entities involved in the merger. In short, OIW and Vigor have entered, or will be entering, into a credit agreement with a lender, managed by KeyBank National Association. OIW is requesting the Agency, as owner of the site, execute the Waiver and Consent document which outlines a number of rights and requirements. More specifically, it requires the Agency to notify the lender upon lease default, provides for the right for the lender to enter and potentially possess the site for up to 90 days for purposes of inspection, and removal or sale of any or all "collateral". The agreement also provides the County's consent for future mortgages, and consent for the lender to assign the lease in the event of foreclosure. See Attachment C.

County Counsel and Agency staff have reviewed the documents and, with exception of the Landlord's Waiver and Consent, found the documents consistent with the intended purpose of the original lease document.

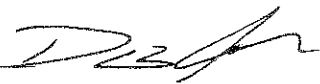
Revisions, as outlined in Attachment D, have been proposed to the Landlord's Waiver and Consent. Upon concurrence of these revisions, or revisions generally consistent with the intent of these revisions, by the lender and lessee; staff would find the document acceptable.

**RECOMMENDATION:**

Staff respectfully recommends that the Board, as the governing body of the Clackamas County Development Agency, move by consent to:

- Delegate authority to the Chair to execute the certificate, consents as modified, and any other necessary document on behalf of the Development Agency Board.
- Record the consents and certificate in the Deed Records of Clackamas County at no cost to the Development Agency.

Respectfully submitted,



Dan Johnson  
Development Agency Manager

For information on this issue or copies of attachments, please contact  
Dan Johnson @ 503-742-4325

## LANDLORD'S ESTOPPEL CERTIFICATE

9571 SE Mather Road, Clackamas, OR

This LANDLORD'S ESTOPPEL CERTIFICATE (this "Certificate") is given as of June \_\_, 2014 by CLACKAMAS COUNTY DEVELOPMENT AGENCY, as the duly designated Urban Renewal Agency of the County of Clackamas, Oregon ("Landlord") for the benefit of OREGON IRON WORKS, INC., an Oregon corporation, and its successors and assigns ("Tenant"), and VIGOR INDUSTRIAL LLC, an Oregon limited liability company, and its successors and assigns ("Vigor").

### RECITALS

A. Tenant is the tenant under that certain Lease dated as of November 10, 2010 (together with all amendments, modifications, riders and addenda thereto, the "Lease"), between Landlord, as landlord, and Tenant, as tenant. All initially capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lease.

B. Tenant and Vigor have entered into an agreement under which Vigor will acquire control of Tenant. Pursuant to such agreement, Tenant is required to obtain confirmation from Landlord regarding certain matters regarding the Lease and the Premises.

NOW, THEREFORE Landlord hereby certifies, warrants and represents that except as set forth on Schedule B:

1. Lease. A true, correct and complete list of all instruments and agreements comprising the Lease is set forth on Schedule A. Other than the Lease, there are no agreements, arrangements or understandings between Landlord and Tenant, or, to Landlord's actual knowledge, to which Landlord or Tenant are bound, relating to the Lease or the Premises.

2. Landlord. Landlord is the current landlord under the Lease.

3. Validity. The Lease is valid and in full force and effect, in accordance with its terms.

4. Base Rent. Annual base rent has been paid through the last day of the calendar month hereof.

5. Renewal. Tenant has no right or option to extend, renew or cancel the Lease or to lease additional space at the Property or to purchase all or any portion of the Property except as set forth expressly in the Lease.

6. Security. The total amount of any unused and unapplied security deposits held by Landlord under the Lease is \$\_\_\_\_\_.

7. Breach. To Landlord's actual knowledge, Tenant has not breached or defaulted upon Tenant's obligations under the Lease, and, to Landlord's knowledge, no fact or circumstance presently exists which, with the giving of notice or the lapse of an applicable cure period, or both, would constitute a breach or default by Tenant under the Lease.

This Certificate shall inure to the benefit of and may be relied upon by Tenant and Vigor.

LANDLORD

CLACKAMAS COUNTY  
DEVELOPMENT AGENCY, as the duly  
designated Urban Renewal Agency of the  
County of Clackamas, Oregon

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



Schedule A

Ground Lease dated November 10, 2010

First Amendment to Ground Lease dated February 28, 2011

Irrevocable Right of Entry dated March 26, 2013 related to the Lease

Schedule B

Exceptions  
[if none, state none]

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**CONSENT TO CHANGE IN OWNERSHIP**

Oregon Iron Works, Inc.  
9700 SE Lawnfield Rd  
Clackamas, OR 97015  
Attention: Corey Yraguen

The undersigned hereby acknowledges that Oregon Iron Works, Inc. (“**OIW**”) intends to enter into a transaction with Vigor Industrial LLC (“**Vigor**”) in which Vigor will become the controlling owner of OIW and OIW will convert from a corporation to a limited liability company (the “**Transaction**”).

The undersigned and OIW are parties to a Ground Lease for the Laydown Yard and Streetcar Facility dated November 10, 2010, as amended, for premises located at 9571 SE Mather Road, Clackamas, Oregon 97015 (the “**Agreement**”). To the extent that under the terms of the Agreement, the Transaction may require the consent of the undersigned, the undersigned hereby consents to the Transaction.

IN WITNESS WHEREOF, the undersigned has caused this Consent to be executed by its duly authorized officer as of the date set forth below.

Dated: \_\_\_\_\_, 2014

Clackamas County Development Agency

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## LANDLORD'S WAIVER AND CONSENT

Oregon Iron Works, Inc. ("Borrower"), is the tenant of a portion of the premises commonly known as 9571 SE Mather Road, Clackamas, Oregon ("Premises"), as the same are more fully described in that certain lease ("Lease") between Borrower, as tenant and the undersigned, as landlord ("Landlord"). Landlord is the sole owner of the Premises and states that a true and complete copy of the Lease and all amendments, modifications, riders and addenda thereto as of the date hereof are attached hereto as Exhibit A and made a part of this Landlord's Waiver and Consent. To Landlord's actual knowledge, the Lease is not in default, nor are there in existence any facts which with notice or passage of time or both would constitute a default or a breach of the terms or conditions of the Lease.

Borrower has entered into that certain Amended and Restated Credit Agreement ("Credit Agreement") with the other Borrowers party thereto, the other credit parties party thereto, the lenders from time to time party thereto (collectively, "Lenders" and individually, a "Lender"), and KeyBank National Association, as administrative agent for the Lenders ("Agent"). As a condition precedent to any extensions of credit pursuant to the Credit Agreement, including, without limitation, the Loans and Letters of Credit (each as defined in the Credit Agreement), Agent and the Lenders require, among other things, liens on all of Borrower's assets ("Collateral") located on the Premises.

Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Credit Agreement.

To induce Agent and the Lenders to enter into the Credit Agreement, and for other good and valuable consideration, Landlord agrees that:

(i) Except for fixtures that are or become Landlord's property upon termination of the Lease, Landlord will not assert any statutory or possessory liens, including, without limitation, rights of levy, attachment or distraint for rent against any of the Collateral, all of which Landlord hereby waives and none of the Collateral shall be deemed to be part of the realty constituting the Premises, whether or not attached to the realty;

(ii) Simultaneously with any notice of default given to Borrower, Landlord agrees to give written notice of such default to Agent (a "Default Notice");

(iii) Landlord shall not terminate the Lease or pursue any other right or remedy under the Lease by reason of any default of Borrower under the Lease, until Landlord shall have given a copy of such written notice to Agent as provided above and Agent shall have the right, but shall not be obligated, to remedy such default within the later of (a) thirty (30) days of Agent's receipt of such written notice from Landlord and (b) any applicable cure periods and Landlord will accept such performance by the Agent;

(iv) if, for any reason, Landlord either deems that Landlord is entitled to redeem or to take possession of the Premises during the term of the Lease, Landlord will notify Agent thirty (30) days before taking such action;

(v) prior to a termination of the Lease, Agent (or its respective representatives and invitees) may enter upon the Premises at any time without unreasonable interference by Landlord to inspect or remove any or all of the Collateral, including, without limitation, by public auction or private sale pursuant to the provisions below; provided, however, that Agent shall comply with all of Tenant's obligations that arise under the Lease during the period of such entry;

(vi) upon a default under, or termination of, the Lease, Landlord will permit Agent to enter and remain on the Premises for ninety (90) days after receipt by Agent of a Default Notice or, if the Lease has expired on its own terms (absent a default thereunder), up to forty-five (45) days following such expiration, provided that during such period of occupation Agent shall pay to Landlord the basic rent due under the Lease monthly in advance (provided, that such rent shall exclude any rent adjustments, indemnity payments or similar amounts payable under the Lease for default, holdover status or similar charges). During such period, (a) Agent (and its respective representatives and invitees) may inspect, repossess, remove and otherwise deal with the Collateral, and Agent may advertise and conduct public auctions or private sales of the Collateral at the Premises, in each case without unreasonable interference by Landlord, and (b) Agent shall make the Premises available for inspection by Landlord and prospective tenants and shall cooperate in Landlord's reasonable efforts to re-lease the Premises. If Agent conducts a public auction or private sale of the Collateral at the Premises, Agent shall notify Landlord first and hold such auction or sale in a manner which would not unduly disrupt Landlord's or any other tenant's use of the Premises. Agent shall promptly repair, at Agent's expense, any physical damage to the Premises actually caused by the conduct of such auction or sale and any removal of Collateral by or through Agent (ordinary wear and tear excluded). Agent shall not be liable for any diminution in value of the Premises caused by the absence of Collateral actually removed or by any necessity of replacing the Collateral, and Agent shall not have any duty or obligation to remove or dispose of any Collateral or any other property left on the Premises by Borrower;

(vii) Landlord consents to and approves of (to the extent such consent and approval is required by the Lease) the execution and delivery by Borrower of: (a) a mortgage, deed of trust, deed to secure debt or other similar instrument (the "Mortgage") to Agent, pursuant to which Borrower will grant a mortgage lien on all of its right, title and interest in and to the Lease and the leasehold estate in the Premises, assign all leases, subleases, rents and profits and grant other security interests in the Premises; and

(viii) Landlord consents to and approves of (to the extent such consent and approval is required by the Lease) any assignment of the Lease in connection with the foreclosure of the Mortgage, or any assignment of the Lease in lieu of foreclosure of the Mortgage, and assignment of the Lease by Agent following such foreclosure of the Mortgage or assignment in lieu of foreclosure, notwithstanding any prohibition or condition on such assignments in the Lease.

All notices hereunder shall be in writing, directed by certified mail to the respective party at the addresses set forth below:

Agent: KeyBank National Association, Agent  
127 Public Square  
Cleveland, Ohio 44114  
Attention: KNB Agency Services  
Attn: Dianne Cox  
Facsimile: (216) 370-5996

Landlord: Clackamas County Development Agency  
Development Services Building  
150 Beaver Creek Road  
Oregon City, Oregon 97045  
Attention: Development Agency Manager  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

The agreements contained in this Landlord's Waiver and Consent shall continue in force until all of Borrower's obligations and liabilities to Agent and the Lenders are indefeasibly paid and satisfied in full and all financing arrangements among Agent, the Lenders and Borrower have been terminated. Agent's rights pursuant to this Landlord's Waiver and Consent shall not be terminated or otherwise adversely affected by any extension, waiver, consent or other indulgence granted by Agent or any Lender to Borrower. Without limiting the generality of the foregoing, Landlord waives notice of (a) Agent or any Lender entering into any security agreement with Borrower, (b) the terms, conditions and other provisions of any security agreement and (c) all other notices, if any, which Landlord, but for this Landlord's Waiver and Consent be or become entitled in respect of the Collateral.

Landlord will notify all Landlord's successors-in-interest to the Premises and all mortgagees of Landlord of the existence of this Landlord's Waiver and Consent. The agreements contained in this Landlord's Waiver and Consent may not be modified or terminated orally and shall be binding upon the successors, assigns and personal representatives of Landlord and Agent.

[Signature on following page.]

Executed and delivered this \_\_\_\_\_ day of June, 2014.

LANDLORD:

CLACKAMAS COUNTY DEVELOPMENT  
AGENCY

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

AGREED AND ACKNOWLEDGED BY:

BORROWER:

OREGON IRON WORKS, INC.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

AGENT:

KEYBANK NATIONAL ASSOCIATION

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## Landlord's Waiver and Consent: Recommended Edits

(i) Except for fixtures that are or become Landlord's property upon termination of the Lease, including but not limited to, the test track, electrical system and associated structures, Landlord will not assert any statutory or possessory liens, including, without limitation, rights of levy, attachment or distraint for rent against any of the Collateral, all of which Landlord hereby waives and non of the Collateral shall be deemed to be part of the realty constituting the Premises, whether or not attached to the realty.

(v) prior to a termination of the Lease, Agent (or its respective representatives and invitees) may enter upon the Premises at any time without unreasonable interference by Landlord to inspect or remove any or all of the Collateral, including, without limitation, by public auction or private sale pursuant to the provisions below; provided, however, that Agent shall comply with all of Tenant's obligations that arise under the Lease during the period of such entry. Agent acknowledges that it has reviewed the Lease and understands, and agrees to be bound by, the Tenant's obligations under the Lease, including but not limited to, those obligations related to the Equitable Servitude, as defined in the Lease.

(vi) upon a default under, or termination of, the Lease, Landlord will permit Agent to enter and remain on the Premises for up to ninety (90) days after receipt by Agent of a Default Notice or, if the Lease has expired on its own terms (absent a default thereunder), up to forty-five (45) days following such expiration, provided that during such period of occupation Agent shall pay to Landlord, each month in advance, a sum which reflects a fair market rate for the leased Premises as agreed upon by the Agent and Landlord (provided, that such rent shall exclude any rent adjustments, indemnity payments or similar amounts payable under the Lease for default, holdover status or similar charges) and that Agent shall comply with all of Tenant's obligations that arise under the Lease, except those that may conflict directly with the terms of this section. During such period, (a) Agent (and its respective representatives and invitees) may inspect, repossess, remove and otherwise deal with the Collateral, and Agent may advertise and conduct public auctions or private sales of the Collateral at the Premises, in each case without unreasonable interference by Landlord, and (b) Agent shall make the Premises available for inspection by Landlord and prospective tenants and shall cooperate in Landlord's reasonable efforts to re-lease the Premises. If Agent conducts a public auction or private sale of the Collateral at the Premises, Agent shall notify Landlord first and hold such auction or sale in a manner which would not unduly disrupt Landlord's or any other tenant's use of the Premises. Agent shall promptly repair, at Agent's expense, any physical damage to the Premises actually caused by the conduct of such auction or sale and any removal of Collateral by or through Agent (ordinary wear and tear excluded). Agent shall not be liable for any diminution in value of the Premises caused by the absence of Collateral actually removed or by any necessity of replacing the Collateral, and Agent shall not have any duty or obligation to remove or dispose of any Collateral or any other property left on the Premises by Borrower.

(viii) Landlord consents to and approves of (to the extent such consent and approval is required by the Lease) any assignment of the Lease in connection with the foreclosure of the Mortgage, or any assignment of the Lease in lieu of foreclosure of the Mortgage. Agent shall not assign the Lease following such foreclosure of the Mortgage or assignment in lieu of foreclosure without the written consent of Landlord, which consent shall not be unreasonably withheld.





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Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment

J. Michael Read  
Interim Director

June 19, 2014

Board of County Commissioner  
Clackamas County

Members of the Board:

APPROVAL OF A SECTION 00500 AGREEMENT BETWEEN CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 AND JRT MECHANICAL, INC. FOR THE  
KELLOGG CREEK WPCP BLOWER BUILDING HVAC IMPROVEMENTS PROJECT

<b>Purpose/Outcomes</b>	The ventilation and cooling in the plant blower building is both inadequate and well past its useful life. The blowers in this building supply large volumes of air for diffusion into the wastewater stream – a very important element for the treatment process. Inadequate cooling has been one of the factors causing blowers to shut down. This project will improve both ventilation and cooling in the building.
<b>Dollar Amount and Fiscal Impact</b>	The agreement is for an amount not to exceed \$232,475 and is funded in the Clackamas County Service District No. 1 FY2013/14 and FY2014/15 budgets.
<b>Funding Source</b>	Clackamas County Service District No. 1 – no General County Funds are involved.
<b>Safety Impact</b>	A more reliable system means less time that maintenance personnel are exposed to dangers inherent to working on old equipment.
<b>Duration</b>	June 2014 thru September 2014
<b>Previous Board Action</b>	None
<b>Contact Person</b>	J. Michael Read, Interim Director – Water Environment Services – 503-742-4560
<b>Contract No.</b>	P112095

**BACKGROUND:**

Much of the ventilation equipment in the blower building dates back to when the facility was built in the '70's. The blower building houses the large blowers that provide large amounts of process air, an important element of the wastewater treatment process. The ventilation system in this building is both aged and inadequate to provide sufficient cooling air to maintain temperatures in the building at a level necessary for continued reliable operation of the blower equipment. This project is necessary to improve that necessary ventilation and cooling.

This project includes modifications to the blower buildings ventilation system, and related mechanical, electrical and control elements. All labor and materials anticipated for this work are included in the not to exceed amount.

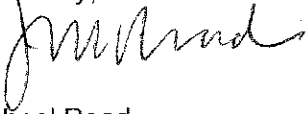
On April 28, 2014 and May 2, 2014 the District publicly advertised the Clackamas County Service District No. 1 – Kellogg Creek WPCP Blower Building HVAC Improvements Project. The District then held a mandatory pre-bid site visit for potential bidders on May 6, 2014, allowing extensive interaction between District personnel and potential bidders. On May 22, 2014, the District opened received bids and confirmed that the low responsive bidder is eligible to perform work in the State of Oregon and is not on the States ineligible list. Of the bids received, it was determined that JRT Mechanical, Inc. is the low responsive bidder. All labor and materials anticipated for this work are included in the not to exceed amount. This agreement has been reviewed and approved by County Counsel.

**RECOMMENDATION:**

For these reasons, staff recommends:

1. The Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 1, a county service district ("District"), and as the Local Contract Review Board, make a finding that advertisements for bids were properly published, that written bids were timely received by the District, and that bids were opened publicly at the designated time; and
2. Approve the contract for the Kellogg Creek WPCP Blower Building HVAC Improvements Project between Clackamas County Service District No.1 and JRT Mechanical, Inc. for an amount not to exceed \$232,475.00; and
3. The Interim Director of Water Environment Services be authorized to execute the agreement between Clackamas County Service District No. 1 and JRT Mechanical, Inc. without further Board action.

Respectfully,



J. Michael Read  
Interim Director

SECTION 00301

BID FORM

To: Clackamas County Service District No. 1  
Address: 150 Beaver Creek Road, Oregon City, Oregon 97045.  
Project Title: Kellogg Creek Water Pollution Control Plant – Blower Building HVAC Improvements Project

1. BIDDER'S DECLARATION:

The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

2. BIDDER ACCEPTS:

BIDDER accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for sixty (60) consecutive calendar days after the day of Bid opening. BIDDER will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Documents within ten (10) consecutive calendar days after the date of OWNER'S Notice of Award.

3. BIDDER's REPRESENTATIONS:

In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:

- A. BIDDER has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged: (List Addenda by Number and Date):

Addenda Number	Date of Issue
<u>None</u>	_____
_____	_____
_____	_____
_____	_____

- B. BIDDER has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. BIDDER's authorized representative attended the mandatory pre-bid conference is hereby acknowledged.

- D. BIDDER understands and is satisfied as to all Federal, State and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work. This includes BIDDER acknowledgment that the provisions of ORS 279C.350 and amendments thereto and regulations issued thereunder, relating to prevailing wages, benefits and other requirements are to be complied with.
- E. BIDDER has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (Surface, Subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction required by the Bidding Documents to be employed by BIDDER, and safety precautions and programs incident thereto.
- F. BIDDER does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance of the Work, at the price bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. BIDDER has correlated the information known to BIDDER, information and observations obtained from visits to the site, reports and drawings identified in the Bidding Documents and all additional examinations, investigations, explorations, tests, studies and data with the Bidding Documents.
- H. BIDDER has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that BIDDER has discovered in the Bidding Documents and the written resolution thereof by ENGINEER is acceptable to BIDDER, and the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- I. Where conflicts, errors, ambiguities or discrepancies have been discovered in or between the Contract Documents and/or other related documents, and where said conflicts, etc., have not been resolved through interpretations of clarifications by the ENGINEER as described in Section 00100 – Instructions to Bidders, because of insufficient time or for any other reason, BIDDER has included in the Bid the greater quantity or better quality of Work, or compliance with the more stringent requirement resulting in a higher Bid.
- J. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly induced or solicited any other BIDDER to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other BIDDER or over OWNER.
- K. BIDDER agrees to comply with the provisions of ORS 279C.800 through 279C.870 or Davis Bacon Act (40 U.S.C 276a) as applicable.

- L. Certifies that BIDDER has not discriminated against minority, women, or emerging small business enterprises in obtaining subcontracts.
- M. OWNER SELECT – OPTIONAL WORK: The OWNER reserves the rights to include or exclude certain portions of the Work identified in the Bid Documents from the Contract. The Optional Work is identified below:
1. Chiller equipment (CHL-6036), cooling coils (CWC-6000-1, CWC-6000-2 and CWC-6000-4), associated piping, associated electrical, associated instrumentation and controls, associated wall penetrations, associated condensate collection and drain pipe, and all associated Work and services described in the Bid Documents.
  2. Three 8-inch diameter ducts directing hot air from the 4-inch motor cooling outlet located on the top of three existing blowers to outside of the Blower Building including connections to the blower piping, concrete wall penetrations and associated ancillary Work and all associated services described in the Bid Documents.
  3. For the purpose of submitting Bids, BIDDERS shall assume OWNER SELECT – OPTIONAL WORK will be included in the Contract. This assumption applies to BIDDER determination of the amount of all required bonds, insurance and other factors associated with Bids.
  4. In the event the OWNER elects to remove OWNER SELECT – OPTIONAL WORK from the Contract, such determination will be made after Contract Award. In such event the amount of the Contract will be reduced via a Contract Change Order by the amount Bid for OWNER SELECT – OPTIONAL WORK as identified in the amount Bid for OWNER SELECT – OPTIONAL WORK as BIDDER identifies in Paragraph 4 below.

4. TOTAL BASE BID:

- a. Total Base Bid Amount: OWNER will pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to the following:
- b. The Total Base Bid Amount will be the sum of the Lump Sum Bid Amount for all Work identified in the Bid Documents plus an Owner Contingency Allowance (OCA) as identified in paragraph 4.c below.
- c. An Owner contingency allowance (OCA) amount for potential Owner use in the amount of \$10,000.00 dollars for Owner's use in-full, in-part or not at all shall be included in the Total Base Bid price. The OCA may only be used if and when authorized by the OWNER. The OCA may be used in-part, in-full or not at all. Use of the OCA shall only be through the Change Order process if and when authorized by the OWNER. Any or all of the OCA that remains unused shall be deducted from the Contract Amount at the time of final Payment.
- d. Lump Sum Bid Amount:

- (1) All Work as identified in the Bid Documents excluding the OWNER SELECT – OPTIONAL WORK described in Paragraph 3.M and excluding the OAC described in Paragraph 4.c:

\$ Seventy Thousand seven hundreded thirty eight and  $\frac{00}{100}$   
(words)

\$ 70,738.00  
(figures)

- (2) The amount Bid for OWNER SELECT – OPTIONAL WORK as described in Paragraph 3.M.

\$ One hundreded fifty one thousand seven hundreded thirty seven and  $\frac{00}{100}$   
(words)

\$ 151,737.00  
(figures)

- (3) The OCA Amount identified below:

Ten Thousand dollars, \$10,000.00

- (4) TOTAL BASE BID: The sum of amounts identified in paragraph 4.d.(1), paragraph 4.d.(2) and paragraph 4.d.(3).

\$ Two hundreded thirty two thousand four hundreded seventy five and  $\frac{00}{100}$   
(words)

\$ 232,475  
(figures)

## 5. Completion.

BIDDER agrees that the Work will be substantially completed and finally completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement. BIDDER agrees that Work associated with all defined interim milestones will be completed on or before the dates or within the number of calendar days indicated in the Agreement.

BIDDER accepts the provisions of the Agreement as to liquidated damages in the event of failure to achieve substantial completion, and make the Work finally complete and ready for final payment, and for completion of all defined interim milestones, within the Contract Times specified in the Agreement.

6. Attached Documents.

The following documents are attached to and made an integral part of this Bid. Failure to submit any of these documents shall render the bid non-responsive. Error in completing these documents may render the bid non-responsive.

- a. Required Bid Security in the amount of five (5) percent of the Bid amount in the form of a certified or bank check, or Bid Bond per Section 00310 – Bid Bond.
  - b. Required BIDDER's Noncollusion Affidavit form per Section 00320.
  - c. Required BIDDER's Resident/Nonresident BIDDER Status form per Section 00330.
7. The following document shall be submitted within two (2) working hours after the time and date specified for submission of Bids and shall be made an integral part of the Bid.
- a. Required BIDDER's First-Tier Subcontractor Disclosure Form per Section 00340.
8. Bidder Contact for Communications.

BIDDER's person to contact for additional information about this Bid:

Name: Sren Johnson

Phone and facsimile no.: (360) 666-0330 / (360) 666-0230

E-Mail Address: Sjohnson@jrtmechanical.com

9. Defined Terms.

Terms used in this Bid have the meanings indicated in the Instructions to Bidder, the General Conditions, and the Supplementary Conditions.

10. BIDDER.

SUBMITTED on May 22nd, 2014.

Oregon State CONTRACTOR License No. 98808

If BIDDER is:

An Individual:

By \_\_\_\_\_  
(Individual's Signature)

\_\_\_\_\_  
(Printed Name)

doing business as \_\_\_\_\_

Business address: \_\_\_\_\_

Phone and facsimile no.: \_\_\_\_\_

A Partnership:

By \_\_\_\_\_  
(Firm name)

\_\_\_\_\_  
(General Partner's Signature)

\_\_\_\_\_  
(Printed Name)

Business address: \_\_\_\_\_

Phone and facsimile no.: \_\_\_\_\_

A Corporation:

By IRT Mechanical  
(Corporation name)

Washington  
(State of incorporation)

By Sven Johnson  
(Signature of person authorized to sign)

Sven Johnson  
(Printed Name)

Project Manager  
(Title)

(Corporate Seal)

Attest Rita C. Yapani  
(Secretary)

Business address: 2211 SE Grace Ave. Battle Ground, WA 98604

Phone and facsimile no.: (360) 666-0830 / (360) 666-0330

**\*\*END OF SECTION\*\***



SECTION 00330

RESIDENT/NONRESIDENT BIDDER STATUS

Oregon law requires that the OWNER, in determining the lowest responsive bidder, must add a percent increase on the bid of a nonresident bidder equal to the percent, if any, of the preference given to that bidder in the state in which that bidder resides.

Consequently, each bidder must indicate whether it is a resident or nonresident bidder. A resident bidder is a bidder that has paid unemployment taxes or income taxes in the State of Oregon during the 12 calendar months immediately preceding submission of this bid, has a business address in Oregon, and has stated in its bid whether the bidder is a "resident bidder." A "nonresident bidder" is a bidder who is not a resident bidder.

The undersigned bidder states that it is: (check one)

- 1. A resident bidder: \_\_\_\_\_
- 2. A nonresident bidder:  \_\_\_\_\_

Indicate state in which bidder resides: Washington

CONSTRUCTION CONTRACTORS REGISTRATION

Oregon law requires that all contractors must be registered with the Construction Contractors Board in order to submit a bid to do work and to do work as a contractor. The undersigned bidder states that it is now registered with the Oregon Construction Contractors Board.

Indicate the Bidder's Registration No. 98808

Sam Johnson  
Signature

JRT Mechanical  
Name of Company

\*\*END OF SECTION\*\*

SECTION 00320

NONCOLLUSION AFFIDAVIT

State of Washington )  
County of Clark ) ss.

Contract Bid Name Kellogg Creek Water Pollut  
Control Plant - Blower Bldg. H

I state that I am Project Manager (Title)

of JRT Mechanical (Name of Firm) and that I am authorized to make this affidavit on behalf of this firm and its owners, directors, and officers. I am the person responsible in this firm for the price(s) and the amount of this Bid.

I state that:

(1) The price(s) and amount of this Bid have been arrived at independently and without consultation, communication or agreement with any other Contractor, Bidder, or potential Bidder, except as disclosed on the attached appendix.

(2) That neither the price(s) nor the amount of this Bid, and neither the approximate price(s) nor approximate amount of this Bid, have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before Bid opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a Bid higher than this Bid, or to submit any intentionally high or noncompetitive Bid or other form of complementary Bid.

(4) The Bid of this firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Bid.

(5) JRT Mechanical (name of this firm), its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as described in the attached appendix.

I state that JRT Mechanical (name of this firm) understands and acknowledges that the above representations are material and important, and will be relied on by the Tri-City Service District in awarding the contract for which this Bid is submitted. I understand and this firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the Clackamas County Service District No. 1 of the true facts relating to the submission of Bids for this contract.

Sam John  
Signature

JRT Mechanical / Project Manager  
Name of Company/Position

Sworn to and subscribed before me this 22<sup>nd</sup> day of May, 2014.

ANDREA RENEE EFFRAIMSON  
NOTARY PUBLIC  
STATE OF WASHINGTON  
COMMISSION EXPIRES  
MAY 08, 2015

Andrea Renee Effraimson  
Notary Public for Oregon  
Washington  
This commission expires May 8, 2015

\*\*END OF SECTION\*\*

SECTION 00310

BID BOND

Bond No.: N/A

Amount: \$ 5% of attached bid

KNOW ALL MEN BY THESE PRESENTS, that JRT Mechanical, Inc.

As BIDDER (PRINCIPAL), and Western Surety company

a corporation duly organized under the laws of the State of South Dakota

having its principal place of business at 12909 SW 68th St. suite 200

Portland in the State of Oregon 97223

and authorized to do business in the State of Oregon, thereafter "Surety," are jointly and severally held and firmly bound unto the Clackamas County Service District No. 1, a county service district formed pursuant to ORS Chapter 451, and public contracting agency, as OWNER (OBLIGEE), in the sum of FIVE PERCENT (5%) of the total amount of the bid of the

Principal, in the sum of Five Percent of attached bid DOLLARS

(\$ 5% of bid), for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns.

The BIDDER is herewith submitting its offer for the fulfillment of the OWNER'S contract for construction of the Kellogg Creek Water Pollution Control Plant – Blower Building HVAC Improvements Project.

NOW THEREFORE, if the bid proposal submitted by the BIDDER is accepted and the contract awarded to the BIDDER, and if the BIDDER shall execute the proposed Agreement and shall furnish such insurance certificates and performance and payment bonds as required by the Contract Documents within the time fixed by the documents, then this obligation shall be void; if the BIDDER shall fail to execute the proposed contract and furnish the bonds, Surety hereby agrees to pay to the OWNER the above sum within ten (10) days of such failure. The surety and OWNER agree that failure or neglect of the BIDDER to furnish, execute and deliver to the OWNER the required performance bond and payment bond and evidence of insurance, and to enter into, execute and deliver to the OWNER the Agreement of the form provided within ten calendar days after receiving written notice from the OWNER that the award has been made and the Agreement is ready for execution will cause damage to the OWNER; that the calculation of the damages is very difficult and therefore the amount payable to the OWNER under the bid guaranty bond, or cash or certified cashier's check shall be paid to OWNER as

liquidated damages; that this is a reasonable estimate of the damages the OWNER will suffer; that this is not a penalty.

SIGNED AND SEALED this 22nd day of May, 2014.

JRT Mechanical, Inc. (SEAL) Western Surety Company (SEAL)

By: [Signature]

By: [Signature]  
Eric R. Sander

Its: president  
"BIDDER"

Its Attorney-In-Fact  
"SURETY"

If the BIDDER is operating under an assumed business name, there must also be set forth in the first paragraph of the bond the names of all the partners or the individual owning the business, and the bond must be executed by one of them.

If the BIDDER is a corporation or a Limited Liability Company, the bond must be executed by one of the officers authorized to execute bonds, showing his official title and the seal of the corporation.

The bond must be executed by an attorney-in-fact for the surety company, shown on the face thereof the Oregon agent for service, and bear the seal for the surety company. Where the bond is executed by an agent, there must be included a copy of the authority of the agent to act for the surety company at the time of the execution of the bond.

To each executed original of this bond, there must be attached a complete set of Contract Documents, with all corrections, interlineations, signatures, etc., completely reproduced therein.

\*\*END OF SECTION\*\*

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Eric R Sander, Daniel J Hansen, Ericka D Carlsen, Individually**

of Ridgefield, WA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 16th day of October, 2012.

WESTERN SURETY COMPANY



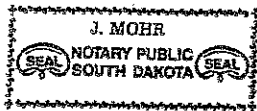
Paul T. Bruflat  
Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 16th day of October, 2012, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2015



J. Mohr  
J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 22nd day of May, 2014.



WESTERN SURETY COMPANY

L. Nelson  
L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

SECTION 00340

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

Project Name: Kellogg Creek WPCP – Blower Building HVAC Improvements Project

Bid #: \_\_\_\_\_ Bid Closing: Date: 5/22/14 Time: 2:00 pm

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award.

**INSTRUCTIONS:**

The bidder will check the box below stating "Not Applicable" if the bid value of the designated project is less than \$100,000. This form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time, but no later than the submittal date and time stated in this bid packet.

Unless otherwise stated in the solicitation, this document shall not be submitted by facsimile. It is the responsibility of bidders to submit this disclosure form and any additional sheets with the project name clearly marked, at the location indicated by the specified disclosure deadline. See "Instructions to Bidders".

List below the Name, Dollar Value, and Category of Work for each first-tier subcontractor that would be furnishing labor, or labor and materials, for which disclosure is required. Check the box stating "No First-Tier Subcontractors" if there are no first-tier subcontractors subject to disclosure. ATTACH ADDITIONAL SHEETS IF NECESSARY.

**BIDDER DISCLOSURE:**

NOT APPLICABLE – Amount bid for this project is less than \$100,000.

NO FIRST-TIER SUBCONTRACTORS – No first-tier subcontractors will be furnishing labor or labor and materials in connection with this project.

SUBCONTRACTOR NAME	DOLLAR VALUE	CATEGORY OF WORK
1. <u>LaLonde</u>	<u>\$19,200</u>	<u>electrical</u>
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

The above listed first-tier subcontractor(s) are providing labor, or labor and material, with a Dollar Value equal to or greater than:

a) 5% of the total Contract Price or \$15,000, whichever is greater. [If the Dollar Value is less than \$15,000 do not list the subcontractor above.]

or

b) \$350,000 regardless of the percentage of the total Contract Price.

Form Submitted By (Bidder Name): JRT Mechanical

Contact Name: Sten Johnson Phone # (360) 831-3178

\*\*END OF SECTION\*\*



SECTION 00500

AGREEMENT

THIS AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_  
by and between Clackamas County Service District No. 1 (hereinafter called OWNER) and

\_\_\_\_\_  
\_\_\_\_\_  
(hereinafter called Contractor).

OWNER 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:

Kellogg Creek Water Pollution Control Plant – Blower Building HVAC Improvements 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 OWNER'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 all of the Work within 135 calendar days of Notice-to-Proceed, and all of the Work shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 165 calendar days after Notice-to-Proceed. 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 OWNER and these documents have been approved as to form by the OWNER'S attorney, and signed by the OWNER. In addition, the Contractor shall adhere to timeframes for Interim Milestones, if any are identified in Section 01313. Interim Milestones identified in Section 01313 (if any) shall be made substantially complete and operational within the times specified in Section 01313.

- 4.3 Contractor and OWNER recognize that time is of the essence of this Agreement and that OWNER 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 OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay OWNER five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.2 above for Substantial Completion until all of the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse or fail to complete the remaining Work within the days specified in paragraph 4.2 above for completion and readiness for final payment or any proper extension thereof granted by OWNER, Contractor shall pay OWNER 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 for all of the Work, plus any fees or penalties imposed by regulators for other violations. In addition, Liquidated Damages for failure to substantially complete Interim Milestone Work identified in Section 01313 (if any) shall be five hundred dollars (\$500.00) for each calendar day that expires after the times specified in Section 01313.

#### Article 5. CONTRACT PRICE

- 5.1 OWNER 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 Article 5.2 below.
- 5.2 For all Work, in accordance with Section 00301 – Bid Form:
- A. Total Base Bid Amount: \$ \_\_\_\_\_

(in figures)

#### 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 \$10,000.00 or more, supply and file, and require every Subcontractor to supply and file, with the OWNER and with the Wage and Hour Division, Bureau of Labor and Industries, 1400 S.W. Fifth Avenue, Portland, Oregon, 97201, a state-

ment 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 fifth (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 OWNER 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 OWNER 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 OWNER for the amount of the approved estimate, less five percent (5%) retainage. Such amount of retainage shall be withheld and retained by OWNER 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 OWNER 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 OWNER 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 OWNER 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 OWNER, (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 OWNER.
- 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. Contractors are required to provide the OWNER 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 OWNER'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 OWNER, 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 OWNER shall not be obligated to pay the same. Nothing contained herein shall limit the requirements of Section 00700, Subsection 10.05, Claims and Disputes.
- 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 OWNER.
- 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 OWNER. 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 OWNER for approval. Upon approval and acceptance by the OWNER, 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 therefore, 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 OWNER with evidence that provisions of ORS Chapter 279A.120 have been satisfied; this is a prerequisite to final payment.
- K. Execute and deliver to OWNER, 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 OWNER 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 OWNER, 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 OWNER declares a default of the Contract and Surety completes said Contract, all payments after declaration of default and retainages held by OWNER 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 OWNER 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 OWNER 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 and Drawings (including Appendices if any) as listed in Table of Contents of the Contract Documents, including the referenced Oregon State prevailing hourly wage rates for Public Works Contracts in Oregon requirements.
7. Reference Records Drawings as identified in Table of Contents of the Contract Documents.
8. Exhibits to this Agreement (enumerated as follows):
  - a. Addenda number(s) \_\_\_ to \_\_\_ included as Exhibit 1.
  - b. Bid Form
  - c. Bid Bond
  - d. Noncollusion Affidavit
  - e. Resident/Nonresident Bidder Status
  - f. 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).

#### 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 No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER 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 OWNER 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 OWNER and at no cost to OWNER, 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 and/or systems are specified to have a longer warranty period, Contractor shall be bound to the longer warranty period for the specific Contractor furnished equipment and/or system.
- B. If Contractor, after written notice, fails within ten (10) days to proceed to comply with the terms of this section, OWNER 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 OWNER, 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 OWNER 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 OWNER 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 OWNER.
  3. Cash deposit to the OWNER'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 OWNER.



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 Clackamas County Service District No. 1 and Clackamas County.

Article 11. ASSIGNMENT OF ANTITRUST RIGHTS

- 11.1 By entering into this Agreement, the Contractor irrevocably assigns to OWNER any claim or cause of action which the Contractor now has or which may accrue in the future, including at OWNER'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 OWNER, 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 OWNER'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 OWNER. It is an express obligation of the Contractor to advise the OWNER'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 OWNER.
- 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 OWNER its proportionate share thereof, if any, assigned to the OWNER 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.

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.

WATER ENVIRONMENT SERVICES  
for CLACKAMAS COUNTY SERVICE DISTRICT  
NO. 1

CONTRACTOR:

OWNER:

\_\_\_\_\_  
Company

\_\_\_\_\_  
Director

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City, State, Zip

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

\_\_\_\_\_  
Title

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

\_\_\_\_\_  
Date

\*\*END OF SECTION\*\*

SECTION 00610  
PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_

\_\_\_\_\_

as PRINCIPAL, and \_\_\_\_\_

\_\_\_\_\_

a corporation, duly authorized to do a general surety business in Oregon, as SURETY, and jointly and severally held and bound unto

\_\_\_\_\_

the OBLIGEE herein, in the sum of \_\_\_\_\_

\_\_\_\_\_ (dollars) (\$)

\_\_\_\_\_

for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns, firmly by these presents:

THE CONDITION OF THIS BOND IS SUCH THAT

WHEREAS, \_\_\_\_\_  
(Contractor)

the PRINCIPAL herein, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
entered into a contract with the OBLIGEE which contract documents consist of the "Invitation to Bid"; the "Instructions to Bidders", the "Bid Proposal, Schedule of Prices and Subcontractor Form", the "Bid Bond", the "Performance Bond and the Payment Bond", the "Certificate of Insurance", the "Prevailing Wage Rates for Public Contracts in Oregon" the "Standard Specifications and Special Provisions", the "Plans and Drawings", and the "Agreement Form" all as hereto attached and made a part hereof, whereby said PRINCIPAL undertakes to do all labor, furnish all plant and equipment, and furnish all material, in accordance with all the terms and conditions set forth in said contract documents; and to save harmless the OBLIGEE from any claim for damages or injury to property or persons arising by reason of said work, as set out more fully in said contract documents; and to do and perform all things in said contract documents required, in the time and manner under the terms and conditions therein set forth; and in conformity with all laws, state and national, applicable thereto.

NOW, THEREFORE, if said PRINCIPAL herein shall commencing with the date hereof and continuing for one year after the complete performance of the contract and the final acceptance of the work in the contract, save harmless the OBLIGEE, its officers and agents, from all claims therefore, or from any claim for damages or injury to property or persons arising by reason of said work; and shall, in the time and manner, and under the terms and conditions prescribed, well and faithfully do, perform, and furnish all matters and things as by them in said

contract undertaken, and as by law, state and national, prescribed, then this obligation shall be void; but otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER, that this bond is subject to the following conditions:

(a) In no event shall the SURETY be liable for a greater sum than the penalty of this bond.

(b) The said SURETY for the value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

(c) The PRINCIPAL herein shall faithfully and truly observe and comply with the terms of the contract and shall well and truly perform all matters and things by him undertaken to be performed under said contract upon the terms proposed therein and shall promptly, as due, make payment to any person, copartnership, association, or corporation furnishing medical, surgical and hospital care or other needed care and attention incidental to sickness or injury to the employees of such PRINCIPAL, pursuant to the laws of this state and any contract entered into pursuant thereto or collected or deducted from the wages of said employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services, and shall do all things required of said PRINCIPAL by the laws of this state.

This bond is given and received under the authority of ORS Chapter 279, the provisions of which hereby are incorporated into this bond and made a part hereof.

Provide the following information:

Bond #: \_\_\_\_\_

Agent Contact Name: \_\_\_\_\_

Agent Address: \_\_\_\_\_

Agent Phone Number: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this bond to be executed in one original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

PRINCIPLE

WITNESSES:

_____	_____ (SEAL)
_____	_____ (SEAL)
_____	_____ (SEAL)

SURETY

The attorney-in-fact who executes this bond in behalf of the surety company, must attach a copy of his power-of-attorney as evidence of his authority.

To each executed original of this bond, there must be attached a complete set of the contract documents, as the term is defined in Section 00500 Agreement, Article 8.1.A, with all corrections, interlineations, signatures, etc., completed reproduced therein.

**\*\*END OF SECTION\*\***

SECTION 00620

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_

\_\_\_\_\_

as PRINCIPAL, and \_\_\_\_\_

\_\_\_\_\_

a corporation, duly authorized to do a general surety business in Oregon, as SURETY, and jointly and severally held and bound unto

\_\_\_\_\_

the OBLIGEE herein, in the sum of \_\_\_\_\_

\_\_\_\_\_ (dollars) (\$)

for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns, firmly by these presents:

THE CONDITION OF THIS BOND IS SUCH THAT

WHEREAS, \_\_\_\_\_  
(Contractor)

the PRINCIPAL herein, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ entered into a contract with the OBLIGEE which contract documents consist of the "Invitation to Bid"; the "Instructions to Bidders", the "Bid Proposal, Schedule of Prices and Subcontractor Form", the "Bid Bond", the "Performance Bond and the Payment Bond", the "Certificate of Insurance", the "Prevailing Wage Rates for Public Contracts in Oregon" the "Standard Specifications and Special Provisions", the "Plans and Drawings", and the "Agreement Form" all as hereto attached and made a part hereof, whereby said PRINCIPAL undertakes to promptly make payment for all labor, services, material, and sums due the workmen's compensation board or equivalent, the collector of internal revenue, the unemployment compensation trust fund, and the treasurer of the State of Oregon in conformity with all laws, state and national, applicable thereto.

NOW, THEREFORE, if said PRINCIPAL herein shall promptly pay all persons furnishing labor, services and material, and sums due for workmen's compensation insurance or equivalent, social security and unemployment compensation, sums due to the Department of Revenue, to him and to his subcontractor, or to their assigns, on or about said work then this obligation shall be void; but otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER, that this bond is subject to the following conditions:

(a) All materialmen, and all persons who shall supply such laborers, mechanics, or subcontractors with material, supplies or provisions for carrying on such work, shall have a direct right of action against the PRINCIPAL and SURETY on this bond, second only to the right of the OBLIGEE under this bond, which right of action shall be asserted in proceedings instituted in the appropriate court of the State of Oregon, and insofar as permitted by the laws of Oregon, such right of action shall be asserted in a proceeding instituted in the name of the OBLIGEE to the use and benefit of the person, firm, or corporation instituting such action and of all other persons, firms, or corporations having claims hereunder, and any other person, firm or corporation having a claim hereunder shall have the right to be made a party to such proceeding (but not later than one year after the complete performance of said contract and final acceptance of the work in the contract) and to have such claim adjudicated in such action and judgment rendered thereon.

(b) In no event shall the SURETY be liable for a greater sum than the penalty of this bond.

(c) The said SURETY for the value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

(d) The PRINCIPAL herein shall faithfully and truly observe and comply with the terms of the contract and shall promptly make payments to all persons supplying labor or material for any prosecution of the work provided for in such contract and shall not permit any lien or claim to be filed or prosecution against the OBLIGEEES, on account of any labor or material furnished, and shall promptly pay all contributions or amount due the workmen's compensation board or equivalent and all contributions or amounts due the state employment compensation trust fund incurred in the performance of said contract, and shall also pay all sums of money withheld from the employees and payable to the state tax commission pursuant to ORS 316.711, and shall do all things required of said PRINCIPAL by the laws of this state.

This bond is given and received under the authority of ORS Chapter 279, the provisions of which hereby are incorporated into this bond and made a part hereof.

Provide the following information:

Bond #: \_\_\_\_\_

Agent Contact Name: \_\_\_\_\_

Agent Address: \_\_\_\_\_

Agent Phone Number: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this bond to be executed in one original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

PRINCIPLE

WITNESSES:

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

SURETY

The attorney-in-fact who executes this bond in behalf of the surety company, must attach a copy of his power-of-attorney as evidence of his authority.

To each executed original of this bond, there must be attached a complete set of the contract documents, as the term is defined in Section 00500 Agreement, Article 8.1.A, with all corrections, interlineations, signatures, etc., completed reproduced therein.

\*\*END OF SECTION\*\*



**CLACKAMAS COUNTY  
WATER ENVIRONMENT  
SERVICES**

**KELLOGG CREEK WATER  
POLLUTION CONTROL PLANT -  
BLOWER BUILDING HVAC  
IMPROVEMENTS PROJECT**

**Bids due 2:00 pm, May 22  
INVITATION TO BID**

**RECEIPT OF BIDS**

Sealed Bids for construction of the Kellogg Creek Water Pollution Control Plant - Blower Building HVAC Improvements Project will be received by Clackamas County Water Environment Services at 150 Beaver Creek Road, Oregon City, Oregon 97045 until the BID CLOSING TIME at 2:00 p.m. local time, on May 22, 2014, at which time the bids will be publicly opened and read. No bids will be received after BID CLOSING TIME. Bidders must deliver First Tier Subcontractor Disclosure Forms to the same location within two working hours of the BID CLOSING TIME in accordance with ORS 279C.370. The First Tier Subcontractor Disclosure Form shall be submitted in a sealed envelope separate from the Bid no later than 4:00 p.m. the same day.

A contract will be awarded or bids rejected within sixty (60) days after opening bids.

**GENERAL DESCRIPTION OF WORK**

The Work contemplated under this project includes providing HVAC system additions and modifications for the existing Blower Building. The Work includes mechanical, electrical, controls, miscellaneous metals, demolition and disposal, and other related Work as identified in the Bid Documents.

**DOCUMENT PROCUREMENT**

Bidding Documents may be obtained at the office of the OWNER by contacting: Water Environment Services, 150 Beaver Creek Road, Oregon City, Oregon 97045; Telephone: (503) 742-4567. Bidding Documents can also be viewed at [www.clackamas.us/wes](http://www.clackamas.us/wes) under Bids & RFPs where it will be the BIDDERS responsibility to inform the OWNER of their contact information for future additional information such as Addendums or other project related clarifications.

Each complete set of Bidding Documents is comprised of Volume 1 - Contract Documents. Parties procuring Bidding Documents will be included on an official plan holder's list maintained by the OWNER. Bidding Documents will be provided without charge if picked up at the Water Environment Services office. Parties requesting that Bidding Documents be delivered by mail are required to prepay a \$20.00 handling and postage fee per set of Bidding Documents. Parties requesting Bidding Documents shall provide a street address (not Post Office Box) where additional information (Addenda, etc.) may be delivered via the U.S. Postal Service (registered mail with return receipt requested) or via an express mail carrier. Parties requesting Bid Documents shall also provide telephone and facsimile contact phone numbers, and an official company contact person name with their e-mail address. Bidders agree that additional information may be also delivered via facsimile or e-mail transmission.

The Bidding Documents may be examined at the following Plan Centers:

Daily Journal of Commerce Plan Center  
921 SW Washington Street, Suite 210  
Portland, Oregon 97205  
Phone: (503) 274-0624, Fax: (503)  
274-2616

Oregon Contractor Plan Center  
14625 SE International Way  
Milwaukie, Oregon 97222  
Phone: (503) 650-0148, Fax: (503)  
650-8273

**GENERAL INFORMATION AND TECHNICAL QUESTIONS**

For general information regarding this project, prospective bidders may contact Mr. Dwayne Kiewer, Project Manager for Clackamas County Water Environment Services at (503) 742-4572 or via email at [DwayneKl@co.clackamas.or.us](mailto:DwayneKl@co.clackamas.or.us).

Technical questions regarding this project shall be submitted in writing to the attention of Mr. Tim Mills and Mr. Brett Teel, Brown and Caldwell via email at [tmills@brwncaid.com](mailto:tmills@brwncaid.com) and [bteel@brwncaid.com](mailto:bteel@brwncaid.com).

**BID SECURITY**

Each Bid shall be accompanied by bid security made payable to OWNER in an amount not less than five (5) percent of the Bid price and in the form of a certified or bank check or bid bond. No bid will be considered unless accompanied by such deposit, to be forfeited to the Clackamas County Water Environment Services in the event the successful BIDDER shall fail or refuse to enter into a contract with the OWNER for the performance and construction of the aforesaid Work.

**CONTRACT SECURITY**

The successful BIDDER shall furnish a performance and payment bond guaranteeing faithful performance, faithful payment and fulfillment of the obligation of a one-year guarantee period.

**MANDATORY PRE-BID CONFERENCE AND SITE TOURS**

A mandatory pre-bid conference will be held on May 6, 2014, at the project site and will commence at 11:00 a.m. Interested prospective prime BIDDERS must attend and interested sub-bidders and suppliers are encouraged to attend and participate in the conference. Bids received from prime BIDDERS who did not attend the mandatory pre-bid conference will not be opened or considered. Representatives of the OWNER and ENGINEER will conduct the pre-bid conference and site tours and attend to receiving attendance sign-in from prospective prime Bidders.

The purpose of the pre-bid conference and site tour is to discuss the scope of the project and bidding requirements and to acquaint bidders with site conditions. Detailed technical questions may be submitted in writing but they will be answered, if warranted, by addenda later. Oral statements may not be relied upon and will not be binding or legally effective.

The pre-bid conference and site tour will commence at the Kellogg Creek Water Pollution Control Plant Administration Building conference room, located at 11525 SE McLoughlin Blvd., Milwaukie, Oregon 97222.

**SITE VISITS**

Prospective BIDDERS and sub-bidders are required to become familiar with and satisfy themselves as to the general, local and site conditions that may affect the cost, progress, performance and furnishing of the Work. Appointments for site visits shall be arranged and scheduled as described in Section 00100 - Instructions to Bidders, Article 8.1.B.

**OTHER**

In order to bid and perform public work, the Successful BIDDER and its subcontractors, prior to Contract award, shall hold or obtain such licenses as may be required by State Statutes and federal and local laws and regulations. BIDDERS must be registered with the Oregon Construction Contractor's Board in accordance with ORS 701 prior to submitting a bid.

This project is for public works subject to ORS 279C.800 to 279C.870 or if applicable the federal prevailing rate of wage required under the Davis-Bacon Act (40 USC 276a). BIDDERS attention is directed to the requirements and conditions of

employment to be observed and minimum wage rates to be paid under this contract as specified in ORS 279C.800 to ORS 279C.870 or if applicable the federal prevailing rate of wage required under the Davis-Bacon Act (40 USC 276a).

BIDDERS shall be qualified in accordance with the applicable parts of ORS 279C in order to submit a bid for public work in Oregon.

The project does not require a contractor or subcontractor to be licensed under ORS 468A.720 for asbestos abatement.

The successful BIDDER will be required to furnish performance and payment bonds for faithful performance of the Contract in the full amount of the contract price.

**RIGHT TO PROTEST AWARD**

An adversely affected or aggrieved BIDDER must submit to Water Environment Services a written protest of the OWNER's intent to award within 7 days after issuance of the notice of intent to award the contract. Protests and/or disputes are to be submitted in accordance with Clackamas County Local Contract Review Board Rules, Division C-046-0470 as may be found on the Clackamas County website: <http://www.clackamas.us/code>.

Each Bid must contain a statement as to whether the Bidder is a resident bidder as defined in ORS 279C.365(h). Out of state Bidders may have a percentage added to their bids in accordance with ORS 279A.120.

Clackamas County Service District No.1 reserves the right to reject all Bids and to waive informalities, in accordance with ORS 279C.395.

Dated this 28th day of April, 2014.  
Published Apr. 26 & May 2, 2014.

10541638



June 19, 2014

Board of Commissioners  
Clackamas County

Members of the Board:

**BOARD ORDER APPROVING CLACKAMAS COUNTY SERVICE DISTRICT NO. 1  
TRANSFER OF APPROPRIATIONS FOR FISCAL YEAR 2013-14**

<b>Purpose/Outcomes</b>	Add budget authority to the Clackamas County Service District No. 1 Sanitary Sewer Operating Fund for costs associated with unanticipated expenses to include an arbitration settlement, employee termination and additional sludge removal expense before the end of the fiscal year.
<b>Dollar Amount and Fiscal Impact</b>	The total amount of the arbitration settlement, including compensation, damages and attorney fees, is \$677,000. The amount allocated to Clackamas County Service District No. 1 (CCSD#1) Sewer Operating Fund is \$444,000. The total amount of the termination costs is \$199,000, of which \$130,000 is allocated to the CCSD#1 Sewer Operating Fund. Biosolids removal expense is expected to increase by \$400,000.00.
<b>Funding Source</b>	CCSD#1 FY2013-14 budget – no impact to County General Fund.
<b>Safety Impact</b>	None
<b>Duration</b>	One-time budget adjustment for current fiscal year 2013-14
<b>Previous Board Action</b>	None
<b>Contact Person</b>	J. Michael Read, Interim Director – Water Environment Services – 503-742-4560
<b>Contract No.</b>	N/A

**BACKGROUND:**

In April of this year WES was notified that an arbitration settlement had been reached. As a result WES was ordered to pay a large portion of the settlement as well as a related settlement for an employee's termination. The expense was allocated to all Districts managed by WES. In addition it is expected that the District will incur additional expenditures associated with unanticipated additional sludge removal.

**RECOMMENDATION:**

Staff respectfully recommends that the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 1, approve this 2013-14 budget transfer in the amount of \$1,000,000.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Michael Read".

J. Michael Read  
Interim Director

In the matter of the Transfer of  
Appropriations within Clackamas  
County Service District No. 1 2013-14  
Fiscal Year Budget.

ORDER NO.

THIS MATTER COMING on at  
this time and it appearing to the Board of County Commissioners that the transfer of budgeted  
appropriations within the Clackamas County Service District No. 1 2013-14 Fiscal Year Budget  
is necessary to continue to prudently manage the distribution of those resources and  
expenditures for the needs of Clackamas County Service District No. 1; and

THE FUND AFFECTED by the  
transfers of budgeted appropriations described above being the Clackamas County Service  
District No. 1 – Sanitary Sewer Operating Fund, and

THIS BOARD being fully advised  
in the premises; therefore  
PURSUANT TO ORS 294.450,  
attachments to this Board Order as set forth in Exhibit A, documenting the aforementioned  
budget transfer, is considered part of the approving resolution and is hereby approved.

Dated this 19<sup>th</sup> day of June, 2014

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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

**TRANSFER REQUESTS**

Exhibit A

**Clackamas County Service District No. 1 – Sanitary Sewer Operating Fund**

Decrease:		
Contingency		<u>\$ 1,000,000.</u>
Total		<u><u>\$ 1,000,000.</u></u>
Increase:		
Materials and Services		<u>\$ 1,000,000.</u>
Total		<u><u>\$ 1,000,000.</u></u>

Transfer from Contingency to Materials and Services for costs associated with an arbitration settlement, an employee termination and biosolids removal expense.



Beyond clean water.

15

Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment

J. Michael Read  
Interim Director

June 19, 2014

Board of Commissioners  
Clackamas County

Members of the Board:

BOARD ORDER APPROVING TRI-CITY SERVICE DISTRICT  
TRANSFER OF APPROPRIATIONS FOR FISCAL YEAR 2013-14

<b>Purpose/Outcomes</b>	Add budget authority to the Tri-City Service District Sanitary Sewer Operating Fund for costs associated with an arbitration settlement, an employee termination and the Oregon City right of way fee.
<b>Dollar Amount and Fiscal Impact</b>	The total amount of the arbitration settlement, including compensation, damages and attorney fees, is \$677,000. The amount allocated to the Tri-City Service District (TCSD) Sewer Operating Fund is \$140,000. The total amount of the termination costs is \$199,000, of which \$41,000 is allocated to the TCSD Sewer Operating Fund. The Right of Way fee is estimated to be \$100,000.00.
<b>Funding Source</b>	TCSD FY2013-14 Budget – no impact to County General Fund.
<b>Safety Impact</b>	None.
<b>Duration</b>	One-time budget adjustment for current fiscal year 2013-14
<b>Previous Board Action</b>	None.
<b>Contact Person</b>	J. Michael Read, Interim Director – Water Environment Services – 503-742-4560
<b>Contract No.</b>	N/A

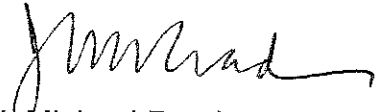
**BACKGROUND:**

In April of this year WES was notified that an arbitration settlement had been reached. As a result, WES was ordered to pay a large portion of the settlement as well as a related settlement for an employee's termination. The expense was allocated to all Districts managed by WES. In addition the city of Oregon City passed an ordinance that became effective February 4 of this year charging for District owned infrastructure that is in the City's right of way. The estimated amount to be paid equals 5 months of payment to the City.

**RECOMMENDATION:**

Staff respectfully recommends that the Board of County Commissioners, acting as the governing body of Tri-City Service District, approve this 2013-14 budget transfer in the amount of \$300,000.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Michael Read". The signature is fluid and cursive, with a long horizontal stroke at the end.

J. Michael Read  
Interim Director

In the matter of the Transfer of  
Appropriations within Tri-City  
Service District 2013-14  
Fiscal Year Budget.

ORDER NO.

THIS MATTER COMING on at  
this time and it appearing to the Board of County Commissioners that the transfer of budgeted  
appropriations within the Tri-City Service District 2013-14 Fiscal Year Budget is necessary to  
continue to prudently manage the distribution of those resources and expenditures for the needs  
of Tri-City Service District; and

THE FUND AFFECTED by the  
transfers of budgeted appropriations described above being the Tri-City Service District –  
Sanitary Sewer Operating Fund, and

THIS BOARD being fully advised  
in the premises; therefore

PURSUANT TO ORS 294.450,  
attachments to this Board Order as set forth in Exhibit A, documenting the aforementioned  
budget transfer, is considered part of the approving resolution and are hereby approved.

Dated this 19<sup>th</sup> day of June, 2014

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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



**TRANSFER REQUESTS**

Exhibit A

**Tri-City Service District – Sanitary Sewer Operating Fund**

Decrease:		
Contingency		\$ 300,000.
Total		<u>\$ 300,000.</u>
Increase:		
Materials and Services		\$ 300,000.
Total		<u>\$ 300,000.</u>

Transfer from Contingency to Materials and Services for costs associated with an arbitration settlement, an employee termination and the City of Oregon City's Right of Way fee.