

December 9, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #02 to a Revenue Contract with Trillium Community Health Plan, Inc. for Certain Behavioral Health Services. Amendment adds \$192,000.00 to value of the Contract. Funding through State of Oregon, Oregon Health Plan funds.

No County General Funds Involved.

Purpose/Outcomes	The contract provides the funding for certain behavioral health services.
Dollar Amount and Fiscal Impact	Amendment adds \$192,000.00 to the value of the Contract. Increases the maximum contract value to \$942,000.00.
Funding Source	No County General Funds are involved. State of Oregon, Oregon Health Plan (OHP) provided through Trillium Community Health Plan.
Duration	Effective January 1, 2022 and terminates on December 31, 2022.
Previous Board Action	Contract reviewed and approved June 11, 2020, Agenda Item 061120-A5. Amendment #01 reviewed and approved January 7, 2021, Agenda Item 010721-A16.
Counsel Review	Amendment reviewed and approved November 2, 2021, Kathleen Rastetter
Procurement Review	Was this item reviewed by Procurement? No. This is a revenue contract.
Strategic Plan Alignment	Ensuring safe, healthy and secure communities through the provision of mental health and substance use services.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division 503-742-5305
Contract No.	9693

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Amendment #02 to a revenue contract with Trillium Community Health Plan, Inc. for the funding for certain behavioral health services. Trillium is a Coordinated Care Organization contracted with the Oregon Health Authority to arrange for the provision of managed care services under the Oregon Health Plan (OHP) for OHP enrollees. This Contract provides funds for Behavioral Health Crisis, Behavioral Health Intensive Care Coordination, Wraparound Care Coordination, Choice Care Coordination and Peer & Community-based Services.

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This Amendment is effective January 1, 2022 and continues through December 31, 2022. Amendment value of \$192,000 increases the maximum contract value to \$942,000.00.

RECOMMENDATION:

Staff recommends Board approval of this Amendment.

Respectfully submitted,

Rodney Cook

Rodney A. Cook, Director
Health, Housing & Human Services Department

**AMENDMENT NO. 2 TO
ADMINISTRATIVE SERVICES AGREEMENT**

This Amendment No. 2 to ADMINISTRATIVE SERVICES AGREEMENT (the “**Amendment**”) is made as of this January 1st, 2022 (the “**Amendment Effective Date**”) by and between Trillium Community Health Plan, Inc. (“**Trillium**” or “**Health Plan**”) and Clackamas County, Oregon, a municipal corporation (“**County**” or “**Vendor**”), (collectively, the “**Parties**”), with reference to the following facts:

A. The Parties have previously entered into an Administrative Services Agreement with the Effective Date of September 1, 2020 (the “**Agreement**”), which may have been amended in accordance with its terms;

B. The Parties desire to modify certain terms and conditions contained in the Agreement as provided in this Amendment;

NOW, THEREFORE, in consideration of the mutual promises, covenants, agreements and other undertakings set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Definitions: Defined terms used in this Amendment shall have the same meaning as in the Agreement unless otherwise specifically defined herein.

2. Section 7.1 Term is hereby deleted in its entirety and replaced with the following:

“Section 7.1 Term.

The Term of this Agreement shall commence on the Effective Date and terminate December 31, 2022.

3. Exhibit D “**Oregon Health Plan Product Attachment**” is hereby deleted in its entirety and replaced with the attached Exhibit D, which is incorporated into the Agreement by reference.

4. To the extent that there is a conflict between this Amendment and the Agreement, this Amendment will prevail. Except as amended and modified by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may not be modified except in writing signed by both parties hereto. This Amendment, the Agreement and exhibits and schedules thereto constitute the entire agreement of the parties with respect to the subject matter contained therein and supersede any and all prior or contemporaneous agreements between the parties, whether oral or written, concerning the subject matter contained herein.

IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives executed this Amendment to be effective as of the Amendment Effective Date.

For: Clackamas County, Oregon

For: Trillium Community Health Plan

Signature

Signature

Name

Christopher Hummer

Name

Title

CEO

Title

Date

Date



Approved as to Form: ___

Date: 11/3/2021

EXHIBIT D

OREGON HEALTH PLAN PRODUCT ATTACHMENT

TRILLIUM COMMUNITY HEALTH PLAN, Inc. (“**Contractor**”) has entered into a Health Plan Services Contract, Coordinated Care Organization Contract with the State of Oregon, acting by and through its Oregon Health Authority (“**OHA**”), to provide and pay for Coordinated Care Services (the “**OHP Contract**”). The OHP Contract requires that certain provisions in this Exhibit be included in any subcontracts and contracts with Vendors. This Exhibit is incorporated by reference into and made part of the Administrative Services Agreement (the “**Agreement**”) with respect to goods and services rendered under the Agreement by Vendor (“**Subcontractor**”) to enrollees of Contractor who are enrolled in the Oregon Health Plan managed care program (“**Members**”).

In the event of a conflict or inconsistency with any term or condition in the Agreement relating to goods and services rendered to Members who are enrolled in the Oregon Health Plan managed care program, this Exhibit shall control. Any additional regulatory requirements that may apply with respect to a Member Contract or Members covered by this Exhibit are or will be set forth in the Provider Manual or another Exhibit. To the extent that a Member Contract or a Member is subject to the law cited in the parenthetical at the end of a provision on this Exhibit 1, such provision will apply to the rendering of Covered Services to a Member with such Member Contract, or to such Member, as applicable.

Subcontractor shall comply with the provisions in this Exhibit to the extent that they are applicable to the goods and services provided by Subcontractor under the Agreement; provided, however, that the Agreement shall not terminate or limit Contractor’s legal responsibilities to OHA for the timely and effective performance of Contractor’s duties and responsibilities under the OHP Contract. Capitalized terms used in this Exhibit, but not otherwise defined herein or in the Agreement shall have the same meaning as those terms in the OHP Contract, including definitions incorporated therein by reference. The current version of the OHP Contract, including the definitions, is publicly available at <https://www.oregon.gov/oha/OHPB/Pages/CCO-2-0-Contract-Selection.aspx>, or the OHP Contract definitions may be requested from Contractor.

1. **OHA.** To the extent any provision in the OHP Contract applies to Contractor or Subcontractor with respect to the Work that Contractor is providing to OHA or Subcontractor is providing to Contractor through the Agreement and is not set forth in this Exhibit, that provision shall be incorporated by reference into this Exhibit and shall apply equally to Subcontractor. Subcontractor shall perform any services or obligations subcontracted by the Contractor and meet the obligations and terms and conditions of the OHP Contract as if the Subcontractor is the Contractor. Subcontractor acknowledges and agrees that the Agreement: (i) is in writing, (ii) specifies the subcontracted Work and reporting responsibilities, (iii) is in compliance with the requirements described in the OHP Contract, and (iv) hereby incorporates the applicable provisions of the OHP Contract, based on the scope of Work subcontracted such that the provisions of the Agreement are the same as or substantively similar to the applicable provisions of the OHP Contract. To the extent that Contractor is held liable for a breach of the OHP Contract by Subcontractor, Subcontractor will be liable for Contractor to the same extent, including reimbursement of all penalties, fines and sanctions applied to Contractor due to Subcontractor’s breach of the OHP Contract. (*OHP Contract Exhibit B, Part 4, Sections 11, 11.a(1) and 11.a(2)*).

2. **Termination for Cause.** In addition to pursuing any other remedies allowed at law or in equity or by the Agreement, the Agreement may be terminated by Contractor, or Contractor may take remedial actions and impose other sanctions against Subcontractor, if the Subcontractor's performance is inadequate to meet the requirements of the OHP Contract. In addition, Contractor may terminate the Agreement, or require Subcontractor (if it contracts with Participating Providers) to terminate the Subcontractor's agreement with a Participating Provider, immediately upon receipt of Legal Notice from the State that Participating Provider is precluded from being enrolled as a Medicaid Provider. *(OHP Contract Exhibit B, Part 4, Section 4.a(6) and 111.b(1)(a))*

3. **Monitoring.**

3.1 **By Contractor.** Subcontractor acknowledges and agrees Contractor has the right to monitor the Subcontractor's performance on an ongoing basis, including performing an annual formal review of compliance with delegated responsibilities, and Subcontractor's performance, deficiencies or areas for improvement, in accordance with 42 CFR § 438.230. Upon identification of deficiencies or areas for improvement, Subcontractor shall take the corrective actions identified by Contractor in a Corrective Action Plan. If deficiencies are identified in Subcontractor's performance for any functions outlined in the OHP Contract, whether those are identified by Contractor, by OHA or their respective designees, Subcontractor will respond and remedy those deficiencies within the timeframe determined by OHA. Contractor may revoke the delegation of activities or obligations or pursue other remedies in accordance with the Agreement in instances where OHA or the Contractor determines the Subcontractor has breached the terms of the Agreement. *(OHP Contract Exhibit B, Part 4, Sections 11.a(16) and 11.b(1)(b))*

3.2 **By OHA.** Subcontractor agrees that OHA is authorized to monitor compliance with the requirements in the Statement of Work under the OHP Contract and that methods of monitoring compliance may include review of documents submitted by Subcontractor, OHP Contract performance review, Grievances, on-site review of documentation or any other source of relevant information. *(OHP Contract Exhibit B, Part 9, Section 1.a)*

4. **Required Subcontractor Provisions.**

4.1 Subcontractor will comply with the payment, withholding, incentive and other requirements of 42 CFR §438.6 that are applicable to the Work required under the Agreement. *(OHP Contract Exhibit B, Part 4, Section 11.b(1)(c))*

4.2 Subcontractor will submit to Contractor Valid Claims for services including all the fields and information needed to allow the claim to be processed without further information from the Provider within timeframes for valid, accurate, Encounter Data submission as required under the OHP Contract. Subcontractor will document, maintain and provide to Contractor all Encounter Data records that document Subcontractor's reimbursement to FQHCs, Rural Health Centers and Indian Health Care Providers. Subcontractor will provide all such documents to Contractor upon request of Contractor. *(OHP Contract Exhibit B, Part 4, Sections 11.b(1)(d) and 11.c)*

4.3 Subcontractor agrees to comply with all Applicable Laws, including, without limitation, all Medicaid laws, rules, regulations, as well as all applicable sub-regulatory guidance and contract provisions. *(OHP Contract Exhibit B, Part 4, Section 11.b(1)(e))*

4.4 Subcontractor agrees that OHA, the Oregon Secretary of State, CMS, HHS, the Office of the Inspector General, the Comptroller General of the United States, or their duly authorized representatives and designees, or all of them or any combination of them, have the right to audit, evaluate, and inspect any books, records, contracts, computers or other electronic systems of the Subcontractor, or of the Subcontractor's contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under the OHP Contract. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(f)*)

4.5 Subcontractor will make available, for purposes of audit, evaluation, or inspection its premises, physical facilities, equipment, books, records, contracts, computer, or other electronic systems relating to its Medicaid Members. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(g)*)

4.6 Subcontractor must respond and comply in a timely manner to any and all requests from OHA or its designee for information or documentation pertaining to Work outlined in the OHP Contract. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(h)*)

4.7 Subcontractor agrees that the right to audit by OHA, CMS, the DHHS Inspector General, the Comptroller General or their designees, will exist for a period of ten (10) years from the Expiration Date of the OHP Contract or from the date of completion of any audit, whichever is later. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(i)*)

4.8 If OHA, CMS, or the DHHS Inspector General determine that there is a reasonable possibility of fraud or similar risk, OHA, CMS, or the DHHS Inspector General may inspect, evaluate, and audit the Subcontractor at any time. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(j)*)

4.9 Subcontractor will adopt and comply with all of Contractor's Fraud, Waste, and Abuse policies, procedures, reporting obligations, and annual Fraud, Waste, and Abuse Prevention Plan. Subcontractor will comply with and perform all of the same obligations, terms and conditions of Contractor as set forth in Exhibit B, Part 9 of the OHP Contract, including Section 11.b(8) of such Part. Unless expressly provided otherwise in the applicable provision, Subcontractor must report any Provider and Member Fraud, Waste, or Abuse to Contractor, and Contractor will be responsible for reporting to OHA or the applicable agency, division, or entity. Accordingly, the timing for reporting obligations of Subcontractor are shorter than those of Contractor's time for reporting to OHA so that Contractor may timely report such incidents to OHA in accordance with the OHA Contract. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(k)*)

4.10 Subcontractor will allow Contractor to perform Monitoring, audit, and other review processes for the purpose of determining and reporting on compliance with the terms and conditions of the Agreement, including, without limitation, compliance with Medical and other records security and retention policies and procedures. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(l)*)

4.11 Subcontractor will report any Other Primary, third-party Insurance to which a Member may be entitled. Subcontractor must report such information to Contractor within a timeframe that enables Contractor to report such information to OHA within thirty (30) days of the Subcontractor becoming aware that the applicable Member has such coverage, as required under Section 16, Exhibit B, Part 8 of the OHP Contract. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(n)*)

4.12 Subcontractors will provide, in a timely manner upon request, as requested by Contractor in accordance with the request made by OHA, or as may be requested directly by OHA, all Third-Party

Liability eligibility information and any other information requested by OHA or Contractor, as applicable, in order to assist in the pursuit of financial recovery. (*OHP Contract Exhibit B, Part 4, Section 11.b(1)(o)*)

5. **Hold Harmless.** Subcontractor understands and agrees that neither OHA nor a Member receiving services are liable for any costs or charges related to Contractor-authorized Covered Services rendered to a Member whether in an emergency or otherwise, including Holistic Care. Furthermore, Subcontractor shall not hold a Member liable for any payments for any of the following: (a) Contractor's or Subcontractor's debt due to Contractor's or Subcontractor's insolvency; (b) Covered Services authorized or required to be provided under the OHP Contract to a Member, for which (i) the State does not pay Contractor; or (ii) Contractor does not pay Subcontractor that furnishes the services under a contractual, referral or other arrangement; or (iii) Covered Services furnished pursuant to the Agreement to the extent that those payments are in excess of the amount that the Member would owe if Contractor provided the services directly. Subcontractor may not initiate or maintain a civil action against a Member to collect any amounts owed by the Contractor for which the Member is not liable to the Subcontractor under the Agreement. Nothing in this paragraph 5 shall impair the right of the Subcontractor to charge, collect from, attempt to collect from or maintain a civil action against a Member for any of the following: (a) deductible, copayment, or coinsurance amounts, (b) health services not covered by the Contractor or the OHP Contract, and (c) health services rendered after the termination of the Agreement, unless the health services were rendered during the confinement in an inpatient facility and the confinement began prior to the date of termination of the Agreement or unless the Subcontractor has assumed post-termination treatment obligations under the Agreement. (*OHP Contract Exhibit B Part 8, Section 4.b; Exhibit L, Section 5.a(5)*)

6. **Continuation.** Subcontractor shall continue to provide Covered Services during periods of Contractor insolvency or cessation of operations through the period for which CCO Payments were made to Contractor.

7. **Billing and Payment.**

7.1 **Non-Covered Services.** Subcontractor shall not, and will ensure that its subcontractors including any Providers do not, bill Members for services that are not Covered Services under the OHP Contract unless: (a) there is a full written disclosure or waiver on file signed by the Member, in advance of the service being provided, in accordance with OAR 410-141-3565, and (b) the Provider has complied with the requirements set forth in OAR 410-120-1280(3)(h). (*OHP Contract Exhibit B, Part 4, Section 11.a.11; Part 8, Section 4.g*)

7.2 **Claims Submission.** Pursuant to OAR 410-141-3565, Subcontractor must submit all billings for Members to Contractor within four months of the Date of Service. However, Subcontractor may, if necessary, submit their claims to Contractor within twelve (12) months from the date of Service under the following circumstances: (a) billing is delayed due to retroactive deletions or enrollments; (b) pregnancy of the Member; (c) Medicare is the primary payer, unless Contractor is responsible for Medicare reimbursement; (d) cases involving Third-Party Resources; or (e) other cases that delay the initial billing to Contractor, unless the delay was due to the Subcontractor's failure to verify a Member's eligibility. (*OHP Contract Exhibit B, Part 8, Section 5.b*)

7.3 **Provider-Preventable Conditions.** No payment under the Agreement will be made for any Provider-Preventable Conditions or Health Care-Acquired Conditions, as specified in the OHP Contract. Subcontractor will comply with the reporting requirements regarding Provider-Preventable Conditions or Health Care-Acquired Conditions specified by Contractor or OHA as a condition of payment from Contractor. Subcontractor will identify Provider-Preventable Conditions that are associated with claims for CCO Payment or with courses of treatment furnished to Members for which CCO Payment would otherwise be available. *(OHP Contract Exhibit B, Part 8, Section 5.i)*

7.4 **Eligibility Verification.** Subcontractor will verify current Member eligibility using the Automated Voice Response system, 270/271 Health Care Eligibility Benefit Inquiry and Response transactions, or the MMIS Web Portal. *(OHP Contract Exhibit B, Part 8, Section 7.b)*

7.5 **Payment Eligibility.** Subcontractor understands and agrees that if Contractor is not paid or not eligible for payment by OHA for services provided, neither will Subcontractor be paid or be eligible for payment. *(OHP Contract Exhibit B, Part 4, Section 11.d)*

8. **Record Keeping.** Subcontractor shall provide OHA, its external quality review organization, or any of its other designees, agent or subcontractors (or a combination, or all, of them) with timely access to records and facilities and cooperate with such parties in the collection of information for the purposes of Monitoring compliance with the OHP Contract, including but not limited to verification of services actually provided, and for developing, Monitoring and analyzing performance and outcomes. Collection methods with which Subcontractor must cooperate may include, without limitation: consumer surveys, on-site reviews, medical chart reviews, financial reporting and financial record reviews, interviews with staff, and other means determined by OHA. *(OHP Contract Exhibit B Part 8, Section 1.b)*

9. **Quality Review.** In conformance with 42 CFR § 438.350 and § 438.358, and 42 CFR §457.1250, Subcontractor shall permit OHA and its designees to have access to, or provide OHA with, Subcontractor's records and facilities, and information requested by OHA and its designees, for the purpose of an annual External Quality Review of compliance with all Applicable Laws and the OHP Contract as well as the quality outcomes and timeliness of, and access to, services provided under the OHP Contract. *(OHP Contract Exhibit B Part 10, Section 8.a)*

10. **Access to Records.** Subcontractor shall maintain all financial records related to the OHP Contract in accordance with best practices or National Association of Insurance Commissioners accounting standards. In addition, Subcontractor shall maintain any other records in such a manner as to clearly document Subcontractor's performance. Subcontractor shall ensure timely access to its Records to OHA, the Secretary of State's Office, CMS, the Comptroller General of the United States, DHHS; the Office of the Inspector General, the Comptroller General of the United States, the Oregon Department of Justice Oregon Health Plan Fraud Control Unit; and their duly authorized representatives for the purpose of performing examinations and audits and making excerpts and transcripts, evaluating compliance with the OHP Contract, and evaluating the quality, appropriateness and timeliness of services. Subcontractor further acknowledges and agrees that the foregoing entities may, at any time, inspect the premises, physical facilities, computer systems and any other equipment and facilities where Medicaid-related activities or Work is conducted or equipment is used (or both conducted and used). The right to audit under this Section exists for 10 years from, as applicable, the Expiration Date or the date of termination, or from the date of completion of any audit, whichever is later. Subcontractor shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit. Subcontractor shall retain and keep accessible all

Records for the longer of ten (10) years: (a) the retention period specified in the OHP Contract for certain kinds of records; (b) the period as may be required by applicable law, including the records retention schedules set forth in OAR Chapters 410 and 166; or (c) until the conclusion of any audit, controversy or litigation arising out of or related to the OHP Contract. The rights of access in this paragraph 10 are not limited to the required retention period, but shall last as long as the Records are retained. (*OHP Contract Exhibit D, Section 15*)

11. **Clinical Records and Confidentiality of Member Records.** Subcontractor shall comply with Contractor's policies and procedures that ensure maintenance of a record keeping system that includes maintaining the security of records as required by the Health Insurance Portability and Accountability Act, 42 USC 1320d *et. seq.*, and the federal regulations implementing the Act (collectively, "**HIPAA**"), and complete Clinical Records that document the Covered Services provided to Members. Subcontractor shall be subject to and take the corrective actions identified by Contractor in a Corrective Action Plan. (*OHP Contract Exhibit B Part 8, Section 2.a*)

12. **Reporting of Abuse.** Subcontractor shall comply with all patient abuse reporting requirements and fully cooperate with the State for purposes of ORS 124.050 *et. seq.*, ORS 419B.010 *et. seq.*, ORS 430.735 *et. seq.*, ORS 433.705 *et. seq.*, ORS 441.630 *et. seq.*, and all applicable Administrative Rules. In addition, Subcontractor shall comply with all protective services, investigation and reporting requirements described in (a) OAR 407-045-0000 through 407-045-0370 (abuse investigations by the Office of Investigations and Training); (b) ORS 430.735 through 430.765 (persons with mental illness or developmental disabilities); (c) ORS 124.005 to 124.040 (elderly persons and persons with disabilities abuse); and (d) ORS 441.650 to 441.680 (residents of long term care facilities). (*OHP Contract Exhibit D, Section 33.b*)

13. **Fraud and Abuse.** Subcontractor shall comply with Contractor's fraud and Abuse policies to prevent and detect fraud and Abuse activities as such activities relate to the OHP Contract, and shall promptly refer all suspected cases of fraud and Abuse to the Contractor and the Oregon Department of Justice Medicaid Fraud Control Unit ("**MFCU**"). Subcontractor shall permit the MFCU or OHA or both to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities maintained by or on behalf of Subcontractor, as required to investigate an incident of fraud and Abuse. Subcontractor shall cooperate with the MFCU and OHA investigator during any investigation of fraud and Abuse. Subcontractor shall provide copies of reports or other documentation regarding any suspected fraud at no cost to MFCU or OHA during an investigation. (*OHP Contract Exhibit B Part 9, Sections 17.d and 17.f*)

14. **Certification.** Subcontractor represents and warrants that all claims data, either directly or through a third party submitter, is and will be accurate, truthful and complete in accordance with OARs 410-141-3565, 410-141-3570 and OAR 410-120-1280. (*OHP Contract Exhibit J, Section 1.b*)

15. **Mental Health Services and Substance Use Disorder Services.**

15.1 Community Services. If Subcontractor arranges for the provision of substance use disorder services, Subcontractor shall provide to Members, to the extent of available community resources and as Medically Appropriate, information and Referral to Community services which may include, but are not limited to: child care; elder care; housing; Transportation; employment; vocational training; educational services; mental health services; financial services; and legal services. (*OHP Contract Exhibit M, Section 7.g*)

15.2 Training. Where Subcontractor provides Substance Use Disorder services and evaluates Members for access to and length of stay in Substance Use Disorder programs and services, Subcontractor represents and warrants that it will use the most current American Society of Addiction Medicine (ASAM) Patient Placement Criteria for the Treatment of Substance-Related Disorders for level of care placement decisions, and that Subcontractor has the training and background to evaluate medical necessity for Substance Use Disorder services using the ASAM. (*OHP Contract Exhibit M, Section 22.e*)

16. **Compliance with Applicable Law.**

16.1 Subcontractor shall comply with all State and local laws, rules, regulations, executive orders and ordinances applicable to the OHP Contract or to the performance of Work under the Agreement, as they may be adopted, amended or repealed from time to time, including but not limited to the following: (a) ORS Chapter 659A.142; (b) OHA rules pertaining to the provision of integrated and coordinated care and services, OAR Chapter 410, Division 141; (c) all other OHA Rules in OAR Chapter 410; (d) rules in OAR Chapter 309, Divisions 012, 014, 015, 018, 019, 022, 032 and 040, pertaining to the provisions of mental health services; (e) rules in OAR Chapter 415 pertaining to the provision of Substance Use Disorders services; (f) state law establishing requirements for Declaration for Mental Health Treatment in ORS 127.700 through 127.737; and (g) all other applicable requirements of State civil rights and rehabilitation statutes, rules and regulations. These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to the OHP Contract and required by law to be so incorporated. OHA's performance under this Contract is conditioned upon compliance with the provisions of ORS 279B.220, ORS 279B.225, 279B.230, 279B.235 and 279B.270, which are incorporated by reference herein. Subcontractor shall, to the maximum extent economically feasible in its performance related to the OHP Contract, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)). (*OHP Contract Exhibit D, Sections 2.a*)

16.2 Subcontractor shall comply with the federal laws as set forth or incorporated, or both, in the OHP Contract and all other federal laws applicable to Subcontractor's performance in connection with the OHP Contract as they may be adopted, amended or repealed from time to time. (*OHP Contract Exhibit D, Sections 2.c*)

17. **Americans with Disabilities Act.** In compliance with the Americans with Disabilities Act of 1990, any written material that is generated and provided by Subcontractor under the OHP Contract to Clients or Members, including Medicaid-Eligible Individuals, shall, at the request of such Clients or Members, be reproduced in alternate formats of communication, to include Braille, large print, audiotape, oral presentation, and electronic format. Subcontractor shall not be reimbursed for costs incurred in complying with this provision. (*OHP Contract Exhibit D, Sections 2.b*)

18. **Information/Privacy/Security/Access.** If the Work performed in connection with the OHP Contract permits Subcontractor to have access to have access or otherwise use of any OHA Information Asset or Network and Information System to which security and privacy requirements apply, and Subcontractor is granted access to such OHA Information Assets or Network and Information Systems, Subcontractor shall comply with the terms and conditions applicable to such access or use, including OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time. *(OHP Contract Exhibit D, Sections 16)*

19. **Governing Law, Consent to Jurisdiction.** The Agreement and the OHP Contract are governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, the "**Claim**") between OHA or any other agency or department of the State of Oregon, or both, and Contractor or Subcontractor that arises from or relates to the OHP Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County or of Multnomah County for the State of Oregon; provided, however, (a) if federal jurisdiction exists then OHA may remove the Claim to federal court, and (b) if a Claim must be brought in or is removed to a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise. **SUBCONTRACTOR, BY EXECUTION OF THE AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.** *(OHP Contract Exhibit D, Sections 1)*

20. **Independent Contractor.**

20.1. Not an Employee of the State. Subcontractor represents and warrants that it is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise. *(OHP Contract Exhibit D, Sections 3.a)*

20.2. Current Work for State or Federal Government. If Subcontractor is currently performing work for the State of Oregon or the federal government, Subcontractor by signature to the Agreement represents and warrants that Subcontractor's Work to be performed under the Agreement creates no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Subcontractor currently performs work would prohibit Subcontractor's work under the Agreement or the OHP Contract. If compensation under the Agreement is to be charged against federal funds, Subcontractor certifies that it is not currently employed by the federal government. *(OHP Contract Exhibit D, Sections 3.b)*

20.3. Taxes. Subcontractor is responsible for all federal and State taxes applicable to compensation paid to Subcontractor under the Agreement, and unless Subcontractor is subject to backup withholding, OHA and Contractor will not withhold from such compensation any amount to cover Subcontractor's federal or State tax obligations. Subcontractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation paid to Subcontractor under the Agreement or the OHP Contract, except as a self-employed individual. *(OHP Contract Exhibit D, Sections 3.c)*

20.4. **Control.** Subcontractor shall perform all Work as an independent contractor. Subcontractor agrees that OHA reserves the right (i) to determine and modify the delivery schedule for the Work, and (ii) to evaluate the quality of the Work Product; however, neither OHA nor Contractor will control the means or manner of Subcontractor's performance. Subcontractor is responsible for determining the appropriate means and manner of performing the Work delegated under the Agreement. (*OHP Contract Exhibit D, Sections 3.d*)

21. **Representations and Warranties.** Subcontractor represents and warrants to Contractor and OHA that: (a) Subcontractor has the power and authority to enter into and perform the Agreement; (b) the Agreement, when executed and delivered, shall be a valid and binding obligation of Subcontractor enforceable in accordance with its terms, (c) Subcontractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Subcontractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Subcontractor's industry, trade or profession; (d) Subcontractor shall, at all times during the term of the Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and (e) Subcontractor prepared its application related to the Agreement or OHP Contract, if any, independently from all other Contractors and subcontractors, and without collusion, Fraud or other dishonesty. The warranties set forth in this paragraph are in addition to, and not in lieu of, any other warranties provided. (*OHP Contract Exhibit D, Sections 4*)

22. **Assignment, Successor in Interest.** Subcontractor shall not assign or transfer its interest in the Agreement or the OHP Contract (if any), voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other matter, without prior written consent of Contractor and/or OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions as Contractor or OHA may deem necessary, including but not limited to Exhibit B, Part 8, Section 14 of the OHP Contract. No approval by Contractor or OHA of any assignment or transfer of interest shall be deemed to create any obligation of Contractor or OHA in addition to those set forth in the Agreement or the OHP Contract, respectively. The provisions of the Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns. (*OHP Contract Exhibit D, Sections 19*)

23. **Subcontracts of Subcontractor.** Where Subcontractor is permitted to subcontract certain functions of the Agreement, Subcontractor shall notify Contractor, in writing, of any subcontract(s) for any of the Work required under the Agreement and the OHP Contract other than information submitted in Exhibit G of the OHP Contract. In addition, Subcontractor shall ensure that any subcontracts, including any subcontracts with Participating Providers, are in writing and include all the requirements set forth in this Exhibit that are applicable to the service or activity delegated under the subcontract.

23.1 **Certified Minority-owned, Woman-owned, or Emerging Small Business (MWESB).** Contractor shall maintain an active identification, verification and recruiting process with the goal of expanding MWESB-certified Subcontractors. Contractor shall provide guidance and direction to Subcontractors seeking certification to include identifying resources needed for such Subcontractors to achieve certification. Contractor shall take reasonable steps, such as through a quote, bid, proposal, or similar process, to ensure that Oregon's MWESB-certified firms are provided an equal opportunity to compete for and participate in the performance of any subcontracts under this Agreement. If there may be opportunities for subcontractors of Subcontractors to work on the Agreement, it is the

expectation of Contractor that the Subcontractor will take reasonable steps to ensure inclusion, participation, and selection of MWESB-certified firms. (*OHP Contract Exhibit B, Part 4, Section 12*)

24. **Severability.** If any term or provision of the OHP Contract, the Agreement or this Exhibit is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provision shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the OHP Contract, the Agreement or this Exhibit did not contain the particular term or provision held to be unlawful. (*OHP Contract Exhibit D, Section 24*)

25. **Limitations of Liabilities.** Subcontractor agrees that neither OHA, Contractor nor a Member will be held liable for any of Subcontractor's debts or liabilities in the event of insolvency. (*OHP Contract Exhibit D, Section 8.d; Exhibit L, Section 5.a(5)(a)*)

26. **Compliance with Federal Laws.** Subcontractor shall comply with federal laws as set forth or incorporated, or both, in the OHP Contract and all other federal laws applicable to Subcontractor's performance relating to the OHP Contract or the Agreement. For purposes of the OHP Contract and the Agreement, all references to federal laws are references to federal laws as they may be amended from time to time. In addition, unless exempt under 45 CFR Part 87 for Faith-Based Organizations, or other federal provisions, Subcontractor shall comply with the following federal requirements to the extent that they are applicable to the OHP Contract and the Agreement:

26.1. **Federal Provisions.** Subcontractor shall comply with all federal laws, regulations, and executive orders applicable to the OHP Contract or to the delivery of Work under the Agreement. Without limiting the generality of the foregoing, Subcontractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the OHP Contract and the Agreement: (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) Section 1557 of the Patient Protection and Affordable Care Act (PPACA), (e) Executive Order 11246, as amended, (f) the Health Insurance Portability and Accountability Act of 1996, as amended, (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (i) the Mental Health Parity and Addiction Equity Act of 2008, as amended; (j) CMS regulations (including 42 CFR Part 438, subpart K) and guidance regarding mental health parity, including 42 CFR 438.900 *et. seq.*; (k) all regulations and administrative rules established pursuant to the foregoing laws, (l) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (m) all federal law governing operation of community mental health programs, including without limitation, all federal laws requiring reporting of Member abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the OHP Contract and the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 USC 14402. (*OHP Contract Exhibit E, Section 1*)

26.2. **Equal Employment Opportunity.** If the Agreement, including amendments, is for more than \$10,000, then Subcontractor shall 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). (*OHP Contract Exhibit E, Section 2*)

26.3. **Clean Air, Clean Water, EPA Regulations.** If the Agreement, including amendments, exceeds \$100,000 then Subcontractor shall comply with all applicable standards, orders, or requirements

issued under Section 306 of the Clean Air Act (42 USC 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 USC 1251 to 1387), specifically including, but not limited to Section 508 (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under nonexempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported in writing to OHA, the U.S. Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Subcontractor shall include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this subparagraph. (*OHP Contract Exhibit E, Section 3*)

26.4. Energy Efficiency. Subcontractor shall 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 USC 6201 et seq. (Pub. L. 94-163). (*OHP Contract Exhibit E, Section 4*)

26.5. Truth in Lobbying. By signing the Agreement, Subcontractor certifies, to the best of the Subcontractor's knowledge and belief each of the following.

a. No federal appropriated funds have been paid or will be paid, by or on behalf of Subcontractor, 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. (*OHP Contract Exhibit E, Section 5.a*)

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Subcontractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions. (*OHP Contract Exhibit E, Section 5.b*)

c. Subcontractor 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. (*OHP Contract Exhibit E, Section 5.c*)

d. The certification made under this Section is a material representation of fact upon which reliance was placed when the Agreement was made or entered into. (*OHP Contract Exhibit E, Section 5.d*)

e. No part of any federal funds paid to Subcontractor under the Agreement may be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or

order issued by the executive branch of any State or local government itself. (*OHP Contract Exhibit E, Section 5.e*)

f. No part of any federal funds paid to Subcontractor under the Agreement may be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government. (*OHP Contract Exhibit E, Section 5.f*)

g. The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control. (*OHP Contract Exhibit E, Section 5.g*)

h. No part of any federal funds paid to Subcontractor under the Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage. (*OHP Contract Exhibit E, Section 5.h*)

26.6. HIPAA Compliance. Subcontractor acknowledges and agrees that Contractor is a “covered entity” for purpose of the privacy and security provisions of HIPAA. Accordingly, Subcontractor shall comply with HIPAA and the following:

a. Privacy and Security of Individually Identifiable Health Information. Individually Identifiable Health Information (“**IIHI**”) about specific individuals is protected from unauthorized use or disclosure consistent with the requirement of HIPAA. IIHI relating to specific individuals may be exchanged between Subcontractor and Contractor and between Subcontractor and OHA for purposes directly related to the provision of services to Members which are funded in whole or in part under the OHP Contract. However, Subcontractor shall not use or disclose any IIHI about specific individuals in a manner that would violate (i) the HIPAA Privacy Rules in CFR Parts 160 and 164; (ii) the OHA Privacy Rules, OAR 407-014-0000 *et. seq.*, or (iii) the OHA Notice of Privacy Practices, if done by OHA. A copy of the most recent OHA Notice of Privacy Practices is posted on the OHA web site at: <https://sharedsystems.dhsoha.state.or.us/forms/>, Form number ME2090 Notice of Privacy Practices, or may be obtained from OHA. (*OHP Contract Exhibit E, Section 6.a*)

b. HIPAA Information Security. Subcontractor shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rule in 45 CFR Part 164 to ensure that Member Information is 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 the OHP Contract and the Agreement. Security incidents involving Member Information must be immediately reported to the Contractor’s privacy officer and to the Oregon Department of Human Services’ (“**DHS**”) Privacy Officer. (*OHP Contract Exhibit E, Section 6.b*)

c. Data Transactions Systems. Subcontractor shall comply with the HIPAA standards for electronic transactions published in 45 CFR Part 162 and the OHA Electronic Data Transmission Rules, OAR 943-120-0100 through 943-120-0200. If Contractor intends to exchange electronic data transactions with OHA in connection with Claims or encounter data, eligibility or enrollment information, authorizations or other electronic transactions, Subcontractor shall comply with OHA Electronic Data Transmission Rules. (*OHP Contract Exhibit E, Section 6.c*)

d. Consultation and Testing. If Subcontractor reasonably believes that the Contractor's or OHA's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Subcontractor shall promptly consult Contractor. Subcontractor agrees that Contractor or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and OHA testing schedule. (*OHP Contract Exhibit E, Section 6.d*)

26.7. Resource Conservation and Recovery. Subcontractor shall 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. (*OHP Contract Exhibit E, Section 7*)

26.8. Audits. Subcontractor shall comply with the applicable audit requirements and responsibilities set forth in the OHP Contract and applicable state or federal law and Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations", as amended and supplemented, including by the December 2013 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. (*OHP Contract Exhibit E, Section 8.a*)

26.9. Debarment and Suspension.

a. Subcontractor represents and warrants that it is not excluded by the U.S. Department of Health and Human Services Office of the Inspector General or listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension." (See 2 CFR Part 180) If Subcontractor has awards that exceed the simplified acquisition threshold, Subcontractor shall provide the required certification regarding their exclusion status and that of their principals prior to award. (*OHP Contract Exhibit E, Section 9*)

b. Subcontractor acknowledges and agrees and shall ensure that no amounts are paid to a Provider that could be excluded from participation in Medicare or Medicaid for any of the following reasons: (i) the Provider is Controlled by a Sanctioned individual, (ii) the Provider has a contractual relationship that provides for the administration, management or provision of Medical Services, or the establishment of policies, or the provision of operational support for the administration, management or provision of Medical Services, either directly or indirectly, with an individual convicted of certain crimes as described in section 1128(b)(8)(B) of the Social Security Act, (iii) the Provider employs or contracts, directly or indirectly, for the furnishing of health care, Utilization Review, medical social work, or administrative services, with one of the following: (A) any individual or entity excluded from participation in federal health care programs or (B) any entity that

would provide those services through an excluded individual or entity. Subcontractor is prohibited from knowingly having a person with ownership of 5% or more of the Subcontractor's equity if such person is (or is affiliated with a person or entity that is) debarred, suspended, or excluded from participation in federal healthcare programs. (*OHP Contract Exhibit E, Section 9*)

c. Subcontractor shall not refer Members to or use Providers who have been terminated from OHA or excluded as Medicare, CHIP, or Medicaid Providers by CMS 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 and 42 CFR §455.3(b), and Subcontractor shall not employ or contract with Providers excluded from participation in Federal health care programs under 42 CFR §438.214(d). (*OHP Contract Exhibit B, Part 4, Section 6.g*)

26.10. Criminal Background Checks. Subcontractor will require its employees to undergo and pass a criminal background check prior to starting any work or services identified in the Agreement; (*OHP Contract Exhibit B, Part 4, Section 12.a(6)*)

26.11. Pro-Children Act. Subcontractor shall comply with the Pro-Children Act of 1994 (codified at 20 USC Section 6081 *et. seq.*) (*OHP Contract Exhibit E, Section 10*)

26.12. Clinical Laboratory Improvements. If Subcontractor is a laboratory, or contracts or uses any laboratories, Subcontractor shall comply and ensure compliance with the Clinical Laboratory Improvement Amendments (CLIA 1988), 42 CFR Part 493 Laboratory Requirements and ORS 438, which require that all laboratory testing sites providing services under the OHP Contract shall have either a Clinical Laboratory Improvement Amendments ("CLIA") certificate of waiver or a certificate of registration along with a CLIA identification number. Laboratories with certificates of waiver will provide only the eight types of tests permitted under the terms of the waiver. Laboratories with certificates of registration may perform a full range of laboratory tests. (*OHP Contract Exhibit E, Section 13*)

26.13. OASIS. To the extent applicable, Subcontractor shall comply with the Outcome and Assessment Information Set ("OASIS") reporting requirements and notice requirements for skilled services provided by Home Health Agencies, pursuant to the CMS requirements published in 42 CFR 484.20, and such subsequent regulations as CMS may issue in relation to the OASIS program. (*OHP Contract Exhibit E, Section 19*)

26.14. Patient Rights Condition of Participation. To the extent applicable, Subcontractor shall comply with the Patient Rights Condition of Participation that hospitals must meet to continue participation in the Oregon Health Plan program, pursuant to 42 CFR Part 482. For purposes of this Exhibit, hospitals include short-term, psychiatric, rehabilitation, long-term, and children's hospitals. (*OHP Contract Exhibit E, Section 20*)

26.15. Federal Grant Requirements. To the extent applicable to Subcontractor or to the extent OHA requires Contractor and its Subcontractors to supply information or comply with procedures to permit OHA to satisfy its obligations federal grant obligations or both, Subcontractor must comply with the following parts of 45 CFR: (a) Part 74, including Appendix A (uniform federal grant administration requirements); (b) Part 92 (uniform administrative requirements for grants to state, local and tribal governments); (c) Part 80 (nondiscrimination under Title VI of the Civil Rights Act); (d) Part 84 (nondiscrimination on the basis of handicap); (e) Part 91 (nondiscrimination on the basis of age); and (f) Part 95 (and CHIP federal grant administration requirements). Subcontractor shall

not expend any of the funds paid under the Agreement for roads, bridges, stadiums, or any other item or service not covered under the Oregon Health Plan (“OHP”). (*OHP Contract Exhibit E, Section 21*)

26.16. Title II of the Americans with Disabilities Act. Subcontractor shall 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.

27. **Marketing.** Subcontractor shall not initiate contact nor Market independently to potential Clients, directly or through any agent or independent contractor, in an attempt to influence an OHP Client’s Enrollment with Contractor, without the express written consent of OHA. Subcontractor shall not conduct, directly, door-to-door, telephonic, mail, electronic, or other Cold Call Marketing practices to entice a Client to enroll with Contractor, or to not enroll with another OHP contractor. Subcontractor shall not seek to influence a Client’s Enrollment with the Contractor in conjunction with the sale of any other insurance. Furthermore, Subcontractor understands that OHA must approve, prior to distribution, any written communication by Subcontractor that (a) is intended solely for Members, and (b) pertains to provider requirements for obtaining coordinated care services, care at service site or benefits. Notwithstanding anything to the contrary in this paragraph 27, Subcontractor may post a sign listing all OHP Coordinated Care Organizations to which Subcontractor belongs and display Coordinated Care Organization-sponsored health promotional materials. (*OHP Contract Exhibit B, Part 3, Section 13.a*)

28. **Workers’ Compensation Coverage.** If Subcontractor employs subject workers, as defined in ORS 656.027, then Subcontractor shall comply with ORS 656.017 and shall provide workers’ compensation insurance coverage for those workers, unless they meet the requirements for an exemption under ORS 656.126(2). (*OHP Contract Exhibit F, Section 1*)

29. **Third Party Resources.**

29.1. Provision of Covered Services. Subcontractor will ensure that the provision of Covered Services is not refused to a Member because of a potential Third Party Liability for payment for the Covered Services. (*OHP Contract Exhibit B, Part 8, Section 17.k*)

29.2. Reimbursement. Subcontractor agrees that where Medicare and Contractor have paid for services, and the amount available from the Third Party Payer is not sufficient to fully reimburse both programs for their respective claims, the Third Party Payer must first reimburse Medicare the full amount of its Claim before any other entity, including Subcontractor, may be paid. In addition, if a Third Party Payer has reimbursed Subcontractor, or if a Member, after receiving payment from a Third Party Payer, has reimbursed Subcontractor, then the parties who received such reimbursements must reimburse Medicare up to the full amount received from the Third Party Payer, if Medicare is unable to recover its payment from any remaining amounts payable by the Third Party Payer. (*OHP Contract Exhibit B, Part 8, Sections 17.r and 17.s*)

29.3. Confidentiality in Recovery Actions. When engaging in Third Party Liability recovery actions, Subcontractor shall comply with, and require agents to comply with, federal and State confidentiality requirements described in Exhibit E of the OHP Contract, and any other applicable additional confidentiality obligations required under the OHP Contract and state law. (*OHP Contract Exhibit B, Part 8, Section 17.v*)

29.4. **No Compensation.** Except as permitted by the OHP Contract including Third Party Resources recovery, Subcontractor will not be compensated for Work performed under the OHP Contract from any other department of the State, nor from any other source including the federal government. (*OHP Contract Exhibit B Part 8, Section 4.c*)

29.5. **Third Party Liability.** Subcontractor shall maintain records of Subcontractor's actions related to Third Party Liability recovery, and make those records available for Contractor and OHA review.

29.6. **Right of Recovery.** Subcontractor shall comply with 42 USC 1395y(b) and 42 CFR Part 411, Subparts C-E, which gives Medicare the right to recover its benefits from employers and workers' compensation carriers, liability insurers, automobile or no fault insurers, and employer group health plans before any other entity including Contractor or Subcontractor. (*OHP Contract Exhibit B, Part 8, Section 17.q*)

29.7. **Disenrolled Members.** If OHA retroactively Disenrolls a Member at the time the Member acquired the Other Primary Insurance, pursuant to OAR 410-141-3080(3)(e)(A) or 410-141-3080(9)(a), Subcontractor may not, and will ensure that any of its subcontractors do not, seek to collect from a Member (or any financially responsible Member Representative) or any Third Party Payer, any amounts paid for any Covered Services provided on or after the date of Disenrollment. (*OHP Contract Exhibit B, Part 8, Section 17.p*)

29.8 **Other Insurance.** Subcontractor shall: (1) report to both Contractor and OHA any Other Insurance to which a Member may be entitled. Subcontractor must report such information to OHA and Contractor within thirty (30) days of becoming aware Member of such coverage. Reporting must be made online at the following URL: <https://www.oregon.gov/DHS/BUSINESS-SERVICES/OPAR/Pages/tpl-hig.aspx>; and (2) provide, in a timely manner upon request, OHA with all Third Party Liability eligibility information and any other information requested by OHA, in order to assist in the pursuit of financial recovery. (*OHP Contract Exhibit B, Part 8, Section 16.m*)

30. **Preventive Care.** Where Preventive Care Services are provided by or through Subcontractor (including, but not limited to, FQHCs, Rural Health Clinics and County Health Departments), all Preventive Care Services provided to Members will be reported to Contractor and are subject to Contractor's Medical Case Management and Record Keeping responsibilities. (*OHP Contract Exhibit B, Part 2, Section 6.a(3)*)

31. **Accessibility.**

31.1. **Timely Access, Hours.** Subcontractor shall meet OHP standards for timely access to care and services, taking into account the urgency of the need for services as specified in OAR 410-141-3515 and 410-141-3860. Covered Services will be made available twenty-four (24) hours a day, seven (7) days a week, when medically appropriate. This requirement includes the offering of hours of operation to Members that are not less than the hours of operation offered to commercial members (as applicable) and non-Members as provided in OAR 410-141-3515. (*OHP Contract Exhibit B, Part 4, Sections 2.a, 2.c and 11.b(1)(m)*)

31.2. **Special Needs.** Subcontractor and Subcontractor's facilities shall meet the special needs of Members who require accommodations because of a disability or limited English proficiency. (*OHP Contract Exhibit B, Part 4, Section 2.j*)

31.3 **Facilities.** Subcontractor and Subcontractor's facilities shall be culturally responsive and linguistically appropriate to satisfy the diverse needs of Members, including, without limitation, adolescents, parents with dependent children, pregnant women, IV drug users and those with medication assisted therapy needs. *(OHP Contract Exhibit B, Part 4, Section 3.a(7))*

32. Member Rights.

32.1. **Treating Members with Respect and Equality.** Subcontractor shall treat each Member with respect and with due consideration for his or her dignity and privacy. In addition, Subcontractor shall treat each Member the same as non-Members or other patients who receive services equivalent to Covered Services. *(OHP Contract Exhibit B, Part 3, Section 2.n)*

32.2. **Information on Treatment Options.** Subcontractor shall ensure that each Member receives information on available treatment options and alternatives in a manner appropriate to the Member's condition and ability to understand. *(OHP Contract Exhibit B, Part 3, Section 2.h)*

32.3. **Participation Decisions.** Subcontractor shall allow each Member to: (a) be actively involved in the development of Treatment Plans if Covered Services are to be provided, (b) participate in decisions regarding his or her own health care, including the right to refuse treatment, (c) accept or refuse medical, surgical, or Behavioral Health treatment, (d) execute directives and powers of attorney for health care established under ORS 127.505 to 127.660 and the Omnibus Budget Reconciliation Act of 1990 -- Patient Self-Determination Act, and (e) have Family involved in such treatment planning. *(OHP Contract Exhibit B, Part 3, Section 2.i)*

32.4. **Copy of Medical Records.** Subcontractor shall ensure that each Member may request and receive a copy of his or her own Health Record (unless access is restricted in accordance with ORS 19.505 or other applicable law) and to request that the records be amended or corrected as specified in 45 CFR Part 164. *(OHP Contract Exhibit B Part 3, Section 2.j)*

32.5. **Exercise of Rights.** Subcontractor shall ensure that each Member is free to exercise his or her rights, and that the exercise of those rights does not adversely affect the way the Contractor, its staff, Subcontractor, Participating Providers, or OHA treat the Member. *(OHP Contract Exhibit B, Part 3, Section 2.o)*

33. **Grievance System.** Subcontractor shall comply with the Grievance and Appeal System requirements set forth in Exhibit I, and any other applicable provisions, of the OHP Contract. Subcontractor shall promptly cooperate with the investigations and resolution of a Grievance by either or both DHS' Client Services Unit and OHA's Ombudsperson as expeditiously as the Member's health condition requires, and within timeframes set forth in or required by the OHP Contract. Subcontractor shall cooperate with DHS's Governor's Advocacy Office, the OHA Ombudsman and hearing representatives in all of the OHA's activities related to Members' grievances, appeals and hearings including providing all requested written materials. *(OHP Contract Exhibit I, Sections 1.b(1), 2.d)*

34. **Authorization of Service.** Subcontractor shall follow Contractor's policies and procedures, including those in its Service Authorization Handbook, in order to obtain initial and continuing Service Authorizations. In addition, Subcontractor must adhere to the policies and procedures set forth in the Service Authorization Handbook. *(OHP Contract Exhibit B Part 2, Section 3.a)*

35. **Non-Discrimination.**

35.1 Subcontractor shall not discriminate between Members and non-OHP persons as it relates to benefits and services to which they are both entitled. (*OHP Contract Exhibit B, Part 4, Section 2.d*)

35.2 Subcontractor 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. (*OHP Contract Exhibit E, Section 18*)

36. **Record Keeping System.** Subcontractor shall develop and maintain a record keeping system that: (a) includes sufficient detail and clarity to permit internal and external review to validate Encounter Data submissions and to assure Members have been, and are being, provided with Medically Appropriate services consistent with the documented needs of the Member; (b) conforms to accepted professional practice and any and all Applicable Laws related thereto; and (c) is supported by written policies and procedures; and (d) allows the Subcontractor to ensure that data submitted to it or Contractor is accurate and complete by: (i) verifying the accuracy and timeliness of reported data; (ii) screening the data for completeness, logic, and consistency; and (iii) collecting service information in standardized formats. (*OHP Contract Exhibit B Part 8, Section 1.e*)

37. **Enrollment; Unique Provider Identification Number.** Subcontractor shall have, or shall confirm that each Physician or other qualified Provider is enrolled with CMS and OHA and has, a unique Provider identification number that complies with 42 USC 1320d-2(b). (*OHP Contract Exhibit B, Part 4, Section 5.j*)

38. **Accreditation.** If Subcontractor is not, or contracts with a Provider that is not, required to be licensed or certificated by the State of Oregon board or licensing agency, the Subcontractor or Provider, as applicable, must either (a) meet the definitions for Qualified Mental Health Associate (QMHA) or Qualified Mental Health Professional (QMHP) and must not be permitted to provide services without the supervision of a Licensed Medical Practitioner; or (b) if not meeting either the definitions of a QMHP or QMHA have the education, experience and competence necessary to perform the specified assigned duties and provide such information to Contractor, so that Contractor may document and report to OHA in its DSN Provider Report: (i) the education, experience and competence of such Participating Provider, and (ii) that such Participating Provider will not be permitted to perform the specific assigned duties without the supervision of a Licensed Medical Practitioner. If programs or facilities of Subcontractor are not required to be licensed or certified by the State of Oregon board or licensing agency, Subcontractor will provide documentation that demonstrates accreditation by nationally recognized organizations recognized by OHA for the services provided (e.g., Council on Accredited Rehabilitation Facilities, The Joint Commission). (*OHP Contract Exhibit B Part 4, Section 5.d*)

39. **Advocacy.** Except as provided in the OHP Contract, Subcontractor shall not prohibit or otherwise limit or restrict Health Care Professionals or subcontractors acting within the lawful scope of practice, from undertaking any of the following activities set forth in this Section on behalf of a Member: (a) advising or otherwise advocating for the Member's health status, medical care, or treatment options, including any alternative treatment that may be self-administered, that is Medically Appropriate even if such care or treatment is not covered under the OHP Contract or is subject to Copayment; (b) providing any and all information the Member needs in order to decide

among relevant treatment options; (c) advising a Member of the risks, benefits, and consequences of treatment or non-treatment; and (d) advising and advocating for the Member's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions. (*OHP Contract Exhibit B Part 2, Section 3.b(16)*)

40. **No Actions.** Subcontractor represents and warrants that neither the state nor federal government has brought any past or pending investigations, legal actions, administrative actions, or matters subject to arbitration involving the Subcontractor, including key management or executive staff, over the past three years on matters relating to payments from governmental entities, both federal and state, for healthcare or prescription drug services.

41. **Notice of Termination.** Subcontractor acknowledges and agrees that, if required under the OHP Contract, Contractor will be the party responsible for providing written notice of the termination of the Agreement to each Member who received primary care from, or was seen on a regular basis by, the Subcontractor. (*OHP Contract Exhibit B, Part 4, Section 11.b(2)*)

42. **Patient-centered Primary Care Homes.** Subcontractor shall ensure communication and coordination of care with the patient-centered primary care homes ("PCPCH") in a timely manner using electronic health information technology to the maximum extent feasible. (*OHP Contract Exhibit B, Part 4, Section 6.c*)

43. **Care Integration.** If Subcontractor contracts with Participating Providers that are specialty or Hospital Providers, Subcontractor will ensure that its agreement with each such Participating Provider: (i) addresses the coordinating role of patient-centered primary care; (ii) specifies processes for requesting Hospital admission or specialty services; and (iii) establishes performance expectations for communication and medical records sharing for specialty treatments: (x) at the time of Hospital admission or (y) at the time of Hospital discharge for the purpose of facilitating after-Hospital follow up appointments and care. (*OHP Contract Exhibit B, Part 4, Section 8.a(3)*)

44. **Oregon House Bill 2398.** Consistent with 42 CFR § 438.106 and 42 CFR § 438.230, Subcontractor is prohibited, and will prohibit its Providers, from billing Members for Covered Services in any amount greater than would be owed if Contractor provided the services directly. Subcontractors shall comply with Oregon House Bill 2398 (Engrossed) 2017 which requires Providers to: (1) wait ninety (90) days after submitting the claim before assigning a claim to a collection agency or other similar entity for the purpose of recovering fees from the patient; (2) query OHA's database to confirm eligibility for medical assistance; (3) assign any outstanding claims to a collection agency or other similar entity for the purpose of recovering fees from a patient **only if**, at the time of service, the patient was not eligible for medical assistance. (*OHP Contract Exhibit B, Part 8, Section 4.f*)

45. **Survival.** All rights and obligations cease upon termination or expiration of the Agreement or OHP Contract, except for the rights and obligations, and declarations which expressly or by their nature survive termination of the Agreement or OHP Contract. Without limiting the foregoing or anything else in the OHP Contract, in no event shall contract expiration or termination extinguish or prejudice OHA's or Contractor's right to enforce the OHP Contract or the Agreement with respect to any default by Subcontractor that has not been cured. In addition to any other provisions of the OHP Contract or the Agreement that by their context are meant to survive contract expiration or termination, the special terms and conditions specified in Section 25.f of Exhibit D of the OHP Contract

survive OHP Contract expiration or termination for a period of two (2) years unless a longer period is set forth in the OHP Contract. (*OHP Contract Exhibit D Section 25*)

46. **Equal Access.** Subcontractor shall provide equal access to Covered Services is provided for both male and female Members under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270. (*OHP Contract Exhibit D, Section 31*)

47. **Media Disclosure.** Subcontractor shall not provide information to the media regarding a recipient of services under the OHP Contract without first consulting with and receiving approval from the OHA and Contractor. Subcontractor shall make immediate contact with Contractor, and Contractor will manage contacts with the OHA office when media contact occurs. The OHA office will assist the Contractor with an appropriate follow-up response for the media. (*OHP Contract Exhibit D, Section 32*)

48. **Mandatory Reporting of Abuse.** Subcontractor shall immediately report any evidence of child abuse, neglect or threat of harm to DHS Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 to 419B.045). If law enforcement is notified, Subcontractor shall notify the referring caseworker within 24 hours. Subcontractor shall immediately contact the local DHS Child Protective Services office if questions arise whether an incident meets the definition of child abuse or neglect. Subcontractor shall comply with all protective services, investigation and reporting requirements described in any of the following laws: (1) OAR 407-045-0000 through 407-045-0370 (abuse investigations by the Office of Investigations and Training); (2) ORS 430.735 through 430.765 (persons with mental illness or developmental disabilities); (3) ORS 124.005 to 124.040 (elderly persons and persons with disabilities abuse); and (4) ORS 441.650 to 441.680 (residents of long term care facilities). (*OHP Contract Exhibit D, Section 33*)

49. **Behavioral Health Screening; Reporting.** Subcontractor will: (a) screen Members for adequacy of supports for the Family in the home (e.g., housing adequacy, nutrition/food, diaper needs, Transportation needs, safety needs and home visiting); (b) screen Members for, and provide, Medically Appropriate and Evidence-Based treatments for Members who have both mental illness and Substance Use Disorders; (c) assess for opioid use disorders for populations at high risk for severe health outcomes, including overdose and death, including pregnant Members and Members being discharged from residential, acute care, and other institutional settings; and (d) screen Members and provide prevention, early detection, brief intervention and Referral to Behavioral Health services in any of the following circumstances: (i) at an initial contact or during a routine physical exam; (ii) at an initial prenatal exam; (iii) when the Member shows evidence of Substance Use Disorders or abuse; (iv) when the Member over-utilizes Covered Services; and (v) when a Member exhibits a reassessment trigger for Intensive Care Coordination needs. Subcontractor will supply all required information to support the Behavioral Health reporting process described in Exhibit M of the OHP Contract. In developing Individual Service and Support Plans for Members, Subcontractor will assess for Adverse Childhood Experiences (ACE), trauma and resiliency in a Culturally and Linguistically Appropriate manner, using a Trauma Informed framework. (*OHP Contract Exhibit M, Sections 6, 21.g and 22.c*)

50. **Provider Directories.** Subcontractor will adhere to Contractor's established policies for Provider Directories and the applicable timeframes for updating the information therein. (*OHP Contract Exhibit B Part 3, Section 6.i*)

51. **Culturally and Linguistically Appropriate Services (CLAS).** Culturally and Linguistically Appropriate and CLAS each means the provision of effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs. (*OHP Contract Exhibit A and Exhibit B Part 4, Section 2*)

51.1 Subcontractor will confirm completion by its Providers, Provider Network, and Provider Network staff of ongoing cultural competency training in accordance with the definition of Cultural Competence (OAR 943-090-0010 and 0020) and the requirements of Cultural Responsiveness and Implicit Bias training per OHP Contract Exhibit K, Section 10.d. Subcontractor shall report on its Cultural Responsiveness and Implicit Bias Training activities to Contractor who, in turn, will incorporate it in its Provider Network reporting. (*OHP Contract Exhibit K, Section 10.d*)

51.2 Interpretation services will be provided by certified or qualified linguistically appropriate interpreters and protect the privacy and independence of members with limited English proficiency (OAR 410-141-3515 (12), *OHP Contract Exhibit B, Part 4 Section 2.h*).

51.3 Per Section 1557 of the Patient Protection and Affordable Care Act requirements, all interpretation and translation services will be free of charge to members and made available at all key points of contact with the Member. Subcontractor is responsible for paying for such services unless otherwise agreed to in the Agreement. Subcontractor shall notify its Providers of the availability of no-cost interpreter services and translation services, including the types of interpreter services available at no cost to the Member, information on how to arrange for interpreter services, and limitations on the use of bilingual staff, minors or accompanying adults as interpreters. (*OHP Contract Exhibit B, Part 3 Section 2.e*)

51.4 Subcontractor shall comply with the requirements of Title II of the Americans with Disabilities Act and Title VI of the Civil Rights Act by assuring communication and delivery of Covered Services to members with diverse cultural and ethnic backgrounds. Such communication and delivery of Covered Services in compliance with such Acts may also require, without limitation, Certified or Qualified Health Care Interpreter services for those members who have difficulty communicating due to a medical condition, disability, or limited English proficiency, or where no adult is available to communicate in English, or there is no telephone and providing access to auxiliary aids and services. Subcontractor must maintain written policies, procedures and plans in accordance with the requirements of OAR 410-141-3515 Network Adequacy. (*OHP Contract Exhibits B, Part 4 Section 2.h*)

51.5 Translated Member materials in non-English threshold languages and alternate formats, including mailed materials and materials available electronically, shall be provided and submitted to the health plan for review and approval. Website and content posted to websites shall meet the accessibility guidelines published by the Web Accessibility Initiative and outlined in Section 508 of the Rehabilitation Act of 1973. All Member materials must submitted to the Health Plan for review and approval. (*OHP Contract Exhibit B, Part 3 Section 4.d*)

51.6 If applicable, in accordance with OAR 410-141-3875 (11), in those physical, behavioral, and oral health offices where Contractor has delegated responsibilities to Subcontractor for grievance involvement, the Subcontractor shall inform Members of right to file grievance and ensure members receive information regarding a Member's right to file a grievance and seek an independent medical review in threshold, concentration standard languages, and in alternative formats and other languages, upon request. (*OHP Contract Exhibits B, Part 4 Section 2.h, Exhibit K Section 10.d.(6)*)

Financial Assistance Application Lifecycle Form

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

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

**** CONCEPTION ****

Section I: Funding Opportunity Information - To be completed by Requester

Award type: Direct Appropriation (no application)
 Subrecipient Award Direct Award
Award Renewal? Yes No

Lead Department & Fund: H3S - Behavioral Health and Public Health Divisions

If renewal, complete sections 1, 2, & 4 only. If Direct Appropriation, complete page 1 and Dept/Finance signatures only.

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

Name of Funding Opportunity: Oregon Health Plan (OHP) Administrative and Delegated Services

Funding Source: Federal State Local

Requestor Information (Name of staff person initiating form): Mary Rumbaugh and Philip Mason-Joyner

Requestor Contact Information: maryrum@clackamas.us; 503-742-5305 and PMason@clackamas.us; 503-742-5956

Department Fiscal Representative: Angela Brink, ABrink@clackamas.us; 503-742-5318

Program Name and prior project # (please specify): _____

Brief Description of Project:

Trillium Community Health Plan, Inc. is a Coordinated Care Organization (CCO) contractually obligated to arrange for the provision of managed care services to enrollees in the Oregon Health Plan (OHP) that have either selected or been assigned Trillium as their CCO. Trillium contracts with Clackamas County to provide the following services: Delegated Services, to include, Behavioral Health Crisis Services, Behavioral Health Intensive Care Coordination Services, Wraparound Care Coordination Services, and Choice Care Coordination Services; Peer and Community-Based Services; Community Health Assessment and Community Health Improvement Plan; Regional Perinatal Continuum of Care, and Tobacco Cessation.

Name of Funding Agency: _____

Agency's Web Address for funding agency Guidelines and Contact Information:

Trillium Community Health Plan, Inc., PO Box 11740, Eugene, OR 97440-3940; Phone 1-877-600-5472

OR

Application Packet Attached: Yes No

Completed By: _____

Date

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

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable:	<u>N/A</u>	Funding Agency Award Notification Date:	<u>October 11, 2021</u>
Announcement Date:	<u>N/A</u>	Announcement/Opportunity #:	<u>N/A</u>
Grant Category/Title:	<u>N/A</u>	Max Award Value:	<u>Amendment #02 - \$192,000.00</u>
Allows Indirect/Rate:	<u>N/A</u>	Match Requirement:	<u>No</u>
Application Deadline:	<u>N/A</u>	Other Deadlines:	<u>N/A</u>
Award Start Date:	<u>January 1, 2022</u>	Other Deadline Description:	<u>N/A</u>
Award End Date:	<u>December 31, 2022</u>		
Completed By:	<u>Angela Brink</u>	Program Income Requirement:	_____
Pre-Application Meeting Schedule:	<u>N/A</u>		

Additional funding sources available to fund this program? Please describe: We have a funding agreement with CareOregon to fund similar Behavioral Health Services to Medicaid Members assigned to Healthshare.

How much General Fund will be used to cover costs in this program, including indirect expenses? No General Fund will be used for this program

No fund balance will be used to cover costs of this program

How much Fund Balance will be used to cover costs in this program, including indirect expenses? _____

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

Mission/Purpose:

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

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

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

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

Organizational Capacity:

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

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

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

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

Collaboration

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

Reporting Requirements

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

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

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

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required, available or will be used to fund the program? Have they already been secured? Please name other sources, including General Fund or Fund Balance and amounts.

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

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

Program Approval:

Name (Typed/Printed)	Date	Signature
** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR **		
ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.		

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Digitally signed by Mary Rumbaugh Date: 2021.11.22 11:33:49 -08'00' Mary Rumbaugh		
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

FINANCE ADMINISTRATION		
Name (Typed/Printed)	Date	Signature

EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

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

For applications less than \$150,000:

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

For applications greater than \$150,000 or which otherwise require BCC approval:

BCC Agenda item #:

Date:

OR

Policy Session Date:

County Administration Attestation

County Administration: re-route to department contact when fully approved.
 Department: keep original with your grant file.

December 9, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of a Contract with Cambridge Consultants for EMS System Planning Services
Maximum contract value is \$152,200. EMS System Enhancement funds are utilized.
No County General Funds are involved

Purpose/Outcomes	Provide EMS System Planning Services to achieve the goal of reviewing, modernizing and updating the Ambulance Service Plan.
Dollar Amount and Fiscal Impact	Maximum contract value is \$152,200.
Funding Source	No County General Funds are involved. EMS System Enhancement funds are utilized.
Duration	Effective upon signature through December 30, 2023
Previous Board Action	None
Strategic Plan Alignment	Ensuring safe, healthy and secure communities through the provision of Emergency Medical Transport Services.
Counsel Review	County counsel has reviewed and approved this document on November 11, 2021 - AN
Procurement Review	1. Was the item processed through Procurement? yes <input checked="" type="checkbox"/> no <input type="checkbox"/>
Contact Person	Philip Mason-Joyner, Public Health Director – (503)742-5956
Contract No.	Cobblestone Contract #4688 – H3S Contract #9650

BACKGROUND:

The Public Health Division of the Health, Housing & Human Services Department requests the approval of a contract with Cambridge Consultants to provide EMS System Planning Services to achieve the goal of reviewing, modernizing and updating the Ambulance Service Plan, County Code Title 10, Chapter 10.01.

PROCUREMENT PROCESS:

This project was advertised in accordance with ORS and LCRB Rules on July 1, 2021, Through RFP 2021-43. Proposals were publicly opened on August 3, 2021. The County received two (2) Proposals in response to the RFP. After review of the Proposals, contracting with Cambridge Consulting Group, LLC was determined to be in the best interest of the county based upon the scoring criteria outlined in RFP 2021-43.

Page 2 Staff Report – Cambridge Consultants
December 9 2021
Cobblestone Contract #4688 – H3S Contract #9650

RECOMMENDATION:

Staff recommends approval of this Contract.

Respectfully submitted,

A handwritten signature in cursive script that reads "Rodney Cook".

Rodney A. Cook, Director
Health, Housing, and Human Services



CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract #4688 – H3S Contract #9650

This Personal Services Contract (this “Contract”) is entered into between **Cambridge Consulting Group, LLC** (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”), on behalf of its Department of Health and Human Services (“H3S”), Public Health division.

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **December 30, 2022**, with an option to extend for one additional year upon mutual agreement of the parties.

2. Scope of Work. Contractor shall provide the following personal services: **EMS System Planning Services (Work)**”, as described Clackamas County RFP 2021-43, Exhibit A, attached and incorporated by reference herein, and Exhibit B, the negotiated scope of work, attached and incorporated by reference herein.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed **One Hundred Fifty-Two Thousand Two Hundred Dollars (\$152,200)**, for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in **Exhibit B**. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit B.

4. Invoices and Payments. Unless otherwise specified, Contractor shall submit milestone invoices for Work performed according to the schedule specified below. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The invoices shall include the total amount billed to date by Contractor prior to the current invoice. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the scheduled milestone date at which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

Milestone Schedule:

- a. Project down payment initially (25%)
- b. Milestone payment end of week 16 (10%)
- c. Milestone payment end of week 18 (10%)
- d. Milestone payment end of week 24 (10%)
- e. Milestone payment end of week 32 (10%)
- f. Milestone payment end of week 40 (10%)
- g. Milestone payment end of week 42 (10%)
- h. Milestone payment end of week 44 (10%)
- i. Final hold-back payment end of week 48 (5%)

Milestone percentages are calculated from the total found in sections 3.

Invoices shall reference the above Contract Number and be submitted to:
PublicHealthFiscalAP@clackamas.us

5. Travel and Other Expense. Authorized: Yes No

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.

6. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, and Exhibit A.

7. Contractor and County Contacts.

Contractor Administrator: Vincent Robbins Phone: 202-505-2256 Email: vrobins@cambridgecg.net	County Administrator: Bill Conway Phone: 503-313-9170 Email: WConway@clackamas.us
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Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 2. AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
- 5. COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
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<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.

The policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.
- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County’s normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.
- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County. County and Contractor intend that such Work Product be deemed “work made for hire” of which County shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.
- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional

standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, and 29 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. 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 and 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.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason,

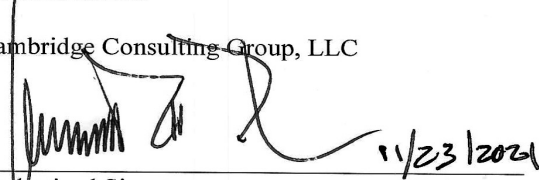
Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.

- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 25. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:
- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
 - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the 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 the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 - e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
 - f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.
- 27. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
- 28. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in

the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

29. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Cambridge Consulting Group, LLC

 Authorized Signature Date 11/23/2021

Clackamas County

 Chair Date

Vincent Robbins/President & CEO

 Name / Title (Printed)
 1894750-99
 Oregon Business Registry #

 Recording Secretary

 Entity Type / State of Formation

APPROVED AS TO FORM
 Digitally signed by Andrew Naylor
 Andrew Naylor
 Date: 2021.11.23 12:21:36
 08:00

 County Counsel Date

**EXHIBIT A
PERSONAL SERVICES CONTRACT
RFP 2021-43**



REQUEST FOR PROPOSALS #2021-43

FOR

EMS System Planning Consultant Services

BOARD OF COUNTY COMMISSIONERS

TOOTIE SMITH, Chair
SONYA FISCHER, Commissioner
PAUL SAVAS, Commissioner
MARK SHULL, Commissioner
MARTHA SCHRADER, Commissioner

Gary Schmidt
County Administrator

Thomas Candelario
Contract Analyst

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: August 3, 2021

TIME: 2:00 PM, Pacific Time

PLACE: Procurement@clackamas.us

SCHEDULE

Request for Proposals Issued.....	July 1, 2021
Protest of Specifications Deadline.....	July 8, 2021, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	July 15, 2021, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	August 3, 2021, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	September 2021

TABLE OF CONTENTS

	Page
Section 1 – Notice of Request for Proposals.....	1
Section 2 – Instructions to Proposers.....	2
Section 3 – Scope of Work	6
Section 4 – Evaluation and Selection Criteria	9
Section 5 – Proposal Content (Including Proposal Certification).....	13

SECTION 1
NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that Clackamas County through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, August 3, 2021** (“Closing”), to provide EMS System Planning Consultant Services. No Proposals will be received or considered after that time.

The resulting contract from this RFP require the consultant to begin work in September 2021. RFP Documents can be downloaded from the Oregon Buys website at the following address: www.oregonbuys.gov , Document No. S-C01010-00000085.

Prospective Proposers will need to sign in to download the information and that information will be accumulated for a Plan Holder's List. Prospective Proposers are responsible for obtaining any Addenda, clarifying questions, and Notices of Award from OREGONBUYS. Sealed Proposals are to be emailed to Clackamas County Procurement Services at procurement@clackamas.us.

Contact Information

Procurement Process and Technical Questions: Thomas Candelario, tcandelario@clackamas.us

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Clackamas County encourages proposals from Minority, Women, Veteran and Emerging Small Businesses.

SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

2.1 Modification or Withdrawal of Proposal: Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

2.2 Requests for Clarification and Requests for Change: Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

2.3 Protests of the RFP/Specifications: Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

2.4 Addenda: If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check OREGONBUYS for any notices, published addenda, or response to clarifying questions.

2.5 Submission of Proposals: Proposals must be submitted in accordance with Section 5. All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Certification Form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.

2.6 Post-Selection Review and Protest of Award: County will name the apparent successful Proposer in a Notice of Intent to Award published on OREGONBUYS. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract. Competing Proposers shall be given seven (7) calendar days from the date on the Notice of Intent to Award to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must

be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. In order to be an adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer; OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer as nonresponsive, if such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name a new apparent successful Proposer; OR
- c. reject all Proposals and cancel the procurement.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

2.8 Public Records: Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.345(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

“This information constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” (ORS 192.345). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

2.9 Investigation of References: County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.

2.10 RFP Proposal Preparation Costs and Other Costs: Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

2.11 Clarification and Clarity: County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

2.12 Right to Reject Proposals: County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

2.13 Cancellation: County reserves the right to cancel or postpone this RFP at any time or to award no contract.

2.14 Proposal Terms: All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

2.15 Oral Presentations: At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

2.16 Usage: It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

2.17 Review for Responsiveness: Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

2.18 RFP Incorporated into Contract: This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

2.19 Communication Blackout Period: Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer is selected, and all protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

2.20 Prohibition on Commissions and Subcontractors: County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

2.21 Ownership of Proposals: All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

2.22 Clerical Errors in Awards: County reserves the right to correct inaccurate awards resulting from its clerical errors.

2.23 Rejection of Qualified Proposals: Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

2.24 Collusion: By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

2.25 Evaluation Committee: Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

2.26 Commencement of Work: The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

2.27 Nondiscrimination: The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

SECTION 3 SCOPE OF WORK

3.1. INTRODUCTION

Clackamas County, on behalf of its Health and Human Services department is seeking Proposals from vendors to provide EMS System Planning Consultant Services.

Clackamas County Public Health Division's Emergency Medical Services (EMS) Program is seeking proposals from qualified contractors to provide project management support and expertise in the development of an EMS System Plan, Ambulance Services Plan (last updated in 2012), and associated contracts, IGAs, and agreements.

Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.

3.2 BACKGROUND

Clackamas County's EMS system currently includes a private ambulance company, fire agencies, dispatch centers, hospitals, public health, behavioral health, and law enforcement.

Through this project, Clackamas County will have an Emergency Medical Services (EMS) System that effectively uses available resources to provide focus, advancement and improvement of patient outcomes, community health, and service delivery.

The County's goal with this project is to create a modernized, integrated medical service delivery plan that facilitates the ability to capitalize on the advancements in the greater healthcare system.

3.3. SCOPE OF WORK

3.3.1. Scope:

Clackamas County's Emergency Medical Services Council has recently adopted a system-wide strategic plan that was approved by the Board of County Commissioners in April 2019. A taskforce has been developed to oversee the implementation of the priority areas identified within the plan, which includes the following:

- Ambulance Service Area Plan Review (updated to be a modernized EMS system plan)
- Medical Priority Dispatch System Integration (focus on achieving accreditation)
- Quality Assurance & Quality Improvement Integration (use of data through technology)
- Community Paramedic Program & Response (system-wide)
- Combined Resources (closest forces model)
- Single Resource Response (first paramedic 'stops the clock' for agency's response time compliance)
- Education & Training (further development of multi-agency trainings & leadership development)
- Public Education (e.g. stop the bleed, hands only CPR)
- Equipment Standardization
- Water Rescue and Reach & Treat Teams Integration
- Compliance Transparency & Improvement
- Supply Reimbursement for medical supplies

The successful proposer will be required to provide guidance and recommendations for optimization of identified innovations, and to facilitate updating the EMS System Plan and associated plans and agreements that include further integration with behavioral health and law enforcement partners, health outcome-based performance measures, and equity of care. The successful proposer will bring further innovative ideas for review and consideration in the development of the EMS System Plan for Clackamas County with input from a variety of stakeholders.

The following responsibilities represent expectations but not limitations of the successful proposer:

1. The contractor shall convene and work closely with local EMS partner agencies in the assessment and development of recommendations for revisions to the EMS System Plan and associated plans /agreements.
2. The contractor shall examine the system-level ideas presented and determine their feasibility and costs, with recommendations for how to operationalize across ambulance service areas.
3. The contractor shall draft and produce an EMS System Plan that must be presented to and accepted by the Clackamas County EMS Council with a 2 year, 5 year, and 10 year phased approach that aligns with the Ambulance Service Area Plan.
4. The contractors shall assure that the updated EMS System Plan and associated plans / agreements will meet relevant local, state, and federal requirements associated with this work.
5. The contractor must clearly explain their proposal for addressing this scope of work based on established timelines.
6. The contractor shall provide a budget that is realistic based on the proposed timeline and scope of work.

3.3.2 Term of Contract:

The term of the contract shall be from the effective date through **June 30, 2022**, with the option to renew for one additional year.

3.3.3 Sample Contract: Submission of a Proposal in response to this RFP indicates Proposer's willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Personal Services Contract, for this RFP can be found at <https://www.clackamas.us/finance/terms.html>.

Personal Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 5 – Travel and Other Expense is Authorized
- Article II, Paragraph 28 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Article II, Paragraph 31 – Cooperative Contracting
- Article II, Paragraph 32 – Federal Contracting Requirements

Exhibit A – On-Call Provision

The following insurance requirements will be applicable:

- Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
- Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
- Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.
- Cyber Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals in accordance with the below criteria. The evaluation committee may recommend an award based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of a contract to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to a different Proposer, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

4.2 Evaluation Criteria

<u>Category</u>	<u>Points available:</u>
Proposer’s General Background and Qualifications	0-30
Answers to project Specific Questions	0-45
Fees	0-25
Available points	0-100

4.3 Once a selection has been made, the County will enter into contract negotiations. During negotiation, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the County is unable to come to terms with the highest scoring Proposer, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple phases and the County deems it is in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer to complete the remaining phases.

SECTION 5 PROPOSAL CONTENTS

5.1. Vendors must observe submission instructions and be advised as follows:

5.1.1. Complete Proposals must be emailed to Procurement@clackamas.us. The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the Proposal if an auto reply is not received.

5.1.3. County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

5.1.4. Proposal may not exceed a total of **25 pages** (single-sided), inclusive of all exhibits, attachments or other information.

Provide the following information in the order in which it appears below:

5.2 Cover Letter:

The cover letter should identify the proposing entity, the contact for the procurement and contract negotiation process, and be signed by an authorized representative or official.

5.3 Proposer's General Background and Qualifications:

1. Description of the firm.
2. Credentials/experience of key individuals that would be assigned to this project.
3. Description of providing similar services to public entities of similar size within the past five (5) years.
4. Description of the firm's ability to meet the requirements in Section 3.
5. Description of what distinguishes the firm from other firms performing a similar service.
6. If selected, the contractor must be a registered contractor through the State of Oregon and meet all applicable local, state, and federal laws and regulations.
7. The contractor must demonstrate comprehensive EMS system experience, including system design, implementation, financial analysis, and practical / operational management experience in similar EMS systems to Clackamas County (e.g. includes public / private partnerships).
8. The contractor must demonstrate a successful track record in developing complex plans with input from a variety of stakeholders and gaining consensus from groups.
9. The contractor must provide examples of previous work on emergency medical services systems over the past five years.

5.4 Project Specific Question

1. Describe what methods will be implemented to develop recommendations for revisions to the EMS plan and associated agreements. How will these methods develop collaboration from sometimes vastly different stakeholders to develop a common goal? (Favorable responses will involve utilizing differing tools to develop recommendations from every stakeholder that involve separate and combined meetings)

2. What system-level data and information will be used to develop feasibility and recommendations? How will this data and information be gathered and analyzed for completeness? (Favorable responses will involve data and info from all stakeholders that may involve non-digitized or anecdotal data from every agency and stakeholder)
3. Name and describe items typically found in a phased plan for Ambulance Service Areas and give examples that are unique to the Clackamas County plan.
4. How will you demonstrate that all local, state, and federal requirements are satisfied in the final proposal?
5. What tools will be used to meet the established timelines for completion and presentation for the completed scope of work. What are previous challenges you have experienced and how have you overcome these challenges. Give examples.
6. What measures have you implemented in previous demonstrated projects like this scope of work that demonstrates your work to be competitive in costs?

5.4. Fees

Fees should be on a time and material basis with a not to exceed project total. Fees should be sufficiently descriptive to facilitate acceptance of a Proposal. Fees and fee schedules should outline all estimated expenses, hourly rates for all assigned individuals, anticipated travel, other reimbursable expenses.

5.5. References

Provide at least three (3) references from clients your firm has served similar to the County in the past three (3) years, including one client that has newly engaged the firm in the past thirty-six (36) months and one (1) long-term client. Provide the name, address, email, and phone number of the references. Please note the required three references may not be from County staff, but additional references may be supplied. Points awarded for this criteria are based on both the providing of references as well as information gleaned from the provided contacts. Evaluation Committee members may contact references at their sole discretion.

5.6. Completed Proposal Certification (see the below form)

PROPOSAL CERTIFICATION
RFP #2021-43 EMS System Planning Consultant Services

Submitted by: _____
(Must be entity's full legal name, and State of Formation)

Each Proposer must read, complete and submit a copy of this Proposal Certification with their Proposal. Failure to do so may result in rejection of the Proposal. By signature on this Proposal Certification, the undersigned certifies that they are authorized to act on behalf of the Proposer and that under penalty of perjury, the undersigned will comply with the following:

SECTION I. OREGON TAX LAWS: As required in ORS 279B.110(2)(e), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Proposer is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means the tax laws of the state or a political subdivision of the state, including ORS 305.620 and ORS chapters 316, 317 and 318. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Proposer to 24% backup withholding.

SECTION II. NON-DISCRIMINATION: That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

SECTION III. CONFLICT OF INTEREST: The undersigned hereby certifies that no elected official, officer, agent or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this RFP, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its elected officials, officers, agents, or employees had induced Proposer to submit this Proposal. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a proposal for the same material, and is in all respects fair and without collusion or fraud.

SECTION IV. COMPLIANCE WITH SOLICITATION: The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the RFP (including any attachments); and
2. Are an authorized representative of the Proposer, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the RFP and Proposal; and
4. Will use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this RFP.

Name: _____ Date: _____

Signature: _____ Title: _____

Email: _____ Telephone: _____

Oregon Business Registry Number: _____ OR CCB # (if applicable): _____

Business Designation (check one):

Corporation Partnership Sole Proprietorship Non-Profit Limited Liability Company

Resident Quoter, as defined in ORS 279A.120

Non-Resident Quote. Resident State: _____

**EXHIBIT B
PERSONAL SERVICES CONTRACT
SCOPE OF WORK**

This Scope of Work, which includes deliverables needed for each element, and the Project Timetable. The timetable includes generalized responsible parties and is meant to help guide activity with the project. Green sections indicate priority areas to all be accomplished by August of 2022

Week(s)	Scope of Work Element	Deliverable
	Project Down payment	25% = \$38,050
1-8 Robbins LaCroix Montera Davis Satterlee Gienapp	Stakeholder Engagement Part 1; Current System Structure & Operation	The consultation process will begin with multiple stakeholder engagement sessions, to include: <ol style="list-style-type: none"> At least one combined on-site visit to physically examine the whole current system and include videoconference meetings with representatives or designees from the following organizations. <ul style="list-style-type: none"> American Medical Response Canby Fire Department Clackamas Fire District #1 Colton Fire District Estacada Fire Department Gladstone Fire Department Hoodland Fire District Lake Oswego Communications Lake Oswego Fire Department Molalla Fire District Tualatin Valley Fire & Rescue Clackamas County C-COM Clackamas County Disaster Management Clackamas County Public Health Clackamas County Fire Chiefs

Week(s)	Scope of Work Element	Deliverable
		<ul style="list-style-type: none"> • Clackamas County Behavioral Health • Community Paramedic Stakeholders • Amy Jo Cook, CFD1 • State DHS Caseworker ○ Apryl Herron, CCPHD • Vale Muggia, OCPD BHS • Care Oregon <ol style="list-style-type: none"> 2. An interview (in-person or videoconference at CCG’s discretion) with a representative sample of EMS medical directors from the county’s agencies delivering EMS. 3. An interview (in-person or videoconference at CCG’s discretion) with the county EMS Director. 4. Process is focused on the current design and status of EMS services and interagency collaboration.
8-16 Montera	Community Paramedic Program	<p>Report on concept of community paramedicine program in a county-wide operation</p> <ul style="list-style-type: none"> • Describe community assessment process • Explain enhancements to community health and the impact of the EMS system • Describe impact on hospitals and patient discharges
	Milestone Payment	10% = \$15,220
9-21 Robbins Davis Gienapp LaCroix O’Neal Satterlee Gunderson	Review of System Resources and Operational Practices pertaining to current ASA	<p>Analysis of current system structure, operational and clinical practices, stakeholder interests, leadership hierarchy, and performance metrics. Recommendations will support a coordinated county-wide system. This analysis will include recommendation of performance standards:</p> <ul style="list-style-type: none"> • Review of fractile response times by geographical density regions • Review of fractile response times by nature of call • Appraisal of current Public/Private assets as related to impact on operational practices and establishment of vehicle and medical equipment functionality and age standards, as well as clinical care delivery standards • EMS station mapping to assess care delivery standards for tiered response criteria

Week(s)	Scope of Work Element	Deliverable
		<ul style="list-style-type: none"> • Analysis of available county-wide resources to accomplish performance standards aims • Analysis of using “first EMS unit on-scene” to “stop the clock” (engines, “chase cars” etc.) for compliance with response time standards requirements • Analysis of First Responder, BLS & ALS level care delivery and recommended performance standard • Modification of existing county EMS delivery contracts to performance-based agreements
22-32 Robbins LaCroix Bloom Gienapp Davis O’Neal	Preliminary Ambulance Service Area Plan Review	<p>Initial revision of ASA Plan expressing a “performance-based” approach to the current EMS system county-wide.</p> <ul style="list-style-type: none"> • Recommended updates to the Ambulance Service Plan • Emphasis on performance-based quality criteria - clinical, operational and financial • Inclusive of performance standards, goals and metrics
	Milestone Payment	10% = \$15,220
33-39 LaCroix Montera & Each Advisor For One On Ones	Stakeholder Engagement Part 2; Alternative Systems’ Structure & Operations	<p>1. The consultation process will continue with multiple stakeholder engagement sessions (in-person or videoconference at CCG’s discretion), to include:</p> <ul style="list-style-type: none"> • American Medical Response • Canby Fire Department • Clackamas Fire District #1 • Colton Fire District • Estacada Fire Department • Gladstone Fire Department • Hoodland Fire District • Lake Oswego Communications • Lake Oswego Fire Department • Molalla Fire District • Tualatin Valley Fire & Rescue • Clackamas County C-COM

Week(s)	Scope of Work Element	Deliverable
		<ul style="list-style-type: none"> • Clackamas County Disaster Management • Clackamas County Public Health • Clackamas County Fire Chiefs • Clackamas County Behavioral Health • Community Paramedic Stakeholders • Amy Jo Cook, CFD1 • State DHS Caseworker ○ Apryl Herron, CCPHD • Vale Muggia, OCPD BHS • Care Oregon <ol style="list-style-type: none"> 2. An interview with a representative sample of EMS medical directors from the county’s agencies delivering EMS. 3. An interview with county EMS Director. 4. Interviews with several hospital representatives knowledgeable of the EMS experience in their facilities. 5. Examining EMS System end state desires. <ul style="list-style-type: none"> • High level SWOT review
33-40 Robbins LaCroix Davis O’Neal Gienapp	Conduct feasibility assessments regarding Alternative System Designs	<p>Analyze system redesign concepts</p> <ul style="list-style-type: none"> • Operational and fiscal perspectives • Assessment of “Best Practice” delivery models as related to implementation in the Clackamas service area • Review of public/private partnerships • Assessment of consolidation of providers • Impact analysis of alternate systems (operational, financial & clinical) • Comparative analysis of alternatives • Stakeholders’ view of alternatives
	Milestone Payment	10% = \$15,220

Week(s)	Scope of Work Element	Deliverable
6-18 Acciavatti	Medical Priority Dispatch System Integration	Review of current telecommunications & dispatch operations <ul style="list-style-type: none"> • Recommendations for improvements and enhancements. • Plan inclusive of a strategy for attaining accreditation as an ACE (Accredited Center of Excellence) from the IAEM (International Academies of Emergency Dispatch)
6-18 Gunderson Satterlee	Quality Assurance & Quality Improvement Integration	Report detailing recommendations for system-wide QI improvements and enhancements. Focus on: <ul style="list-style-type: none"> • Cause and Effect • Failure Modes and Analysis • Run and Control Charts • Plan, Do, Study, Act • Use of data and technology
	Milestone Payment	10% = \$15,220
6-18 Todaro Satterlee	Education & Training	Report of review detailing current status of education & training system-wide <ul style="list-style-type: none"> • Recommendations for improvements, enhancements and expansion of multi-agency, combined training. Plan will be inclusive of a strategy for attaining system (county) wide approach.
6-18 Satterlee	Medical Oversight	Medical treatment protocols review. Recommendations for changes.
6-20 Bloom	Compliance Transparency & Improvement	Report of review detailing current status of public transparency and regulatory compliance for each agency with recommendations for improvements and enhancements <ul style="list-style-type: none"> • Inclusive of local, regional, state and federal level

Week(s)	Scope of Work Element	Deliverable
		<ul style="list-style-type: none"> Recommended strategies for process improvement and change methodology
8-24 Atkinson Satterlee Todaro	Public Education	<p>Report of review detailing current status of public emergency medical intervention education & training system-wide with recommendations for improvements, enhancements and expansion.</p> <ul style="list-style-type: none"> Inclusive of popular public education programs, such as “Stop the Bleed” and CPR. Plan will be inclusive of a strategy for attaining system (county) wide approach Recommendations on using traditional and social media to reach county stakeholders Interactions with hospitals
	Milestone Payment	10% = \$15,220
32-40 TBD	Equipment Standardization	<p>Report will review current equipment type usage at all EMS agencies</p> <ul style="list-style-type: none"> Recommend selected standardization that would enhance patient care delivery Identify methods to enhance group purchasing opportunities
32-40 Robbins	Reimbursement for Medical Supplies	<p>Report of review detailing current status of medical supply reimbursement for each agency</p> <ul style="list-style-type: none"> Recommendations for improvements and enhancements Inclusive of billing strategies and processes needed.
32-40 Gienapp	Water Rescue and Reach & Treat Teams Integration	<p>Report of review detailing current status of water rescue and reach & treat teams</p> <ul style="list-style-type: none"> Recommendations for improvements and enhancements. Plan will be inclusive of a strategy for educational and operational improvements and further integration

Week(s)	Scope of Work Element	Deliverable
33-42 Montera	Community Paramedic Program and Expansion	Report detailing current status of community paramedicine system-wide with recommendations for <ul style="list-style-type: none"> • Community assessment process • Enhancements and expansion to existing programs • Analysis of consolidating services • Analysis of hospital integration • Plan will be inclusive of a strategy for attaining system (county) wide services
	Milestone Payment	10% = \$15,220
32-44 Robbins LaCroix Montera Bloom O'Neal Gienapp	EMS System Strategic Plan (2, 5 & 10 years)	Revised Strategic Plan expressing a “high-performance” approach to an efficient and high-quality EMS system county-wide and recommended model for EMS system <ul style="list-style-type: none"> • The plan will consider all recommendations derived from analyses and reports generated from this overall engagement • This plan will elucidate goals at the 2-, 5- and 10-year horizons • It will further identify strategies and tactics to attain established goals.
	Milestone Payment	10% = \$15,220
48 All Advisors	Final Report Issued & presented	Written report inclusive of entire scope of work will be completed and presented.
	Final Hold-back Payment	5% = \$7,610

December 9, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement with Sandy Fire District for COVID vaccine administration. Contract maximum value is \$150,000. Funding through the ARPA and FEMA funding

No County General Funds are Involved

Purpose/Outcomes	Provide distribution of COVID vaccine via community clinics.
Dollar Amount and Fiscal Impact	Contract maximum value is \$150,000.
Funding Source	Funding through the ARPA and FEMA funding. No County General Funds are involved.
Duration	January 1, 2022 and terminates on December 31, 2022
Previous Board Action	Item approved at issues 12/7/21
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on November 15, 2021 - KR
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. The documents are IGA's.
Contact Person	Philip Mason-Joyner, EOC Command – (503) 742-5956
Contract No.	10442

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Intergovernmental Agreement with Sandy Fire District for COVID vaccine administration.

Clackamas County desires to partner with local fire agencies to conduct COVID-19 testing and distribution of COVID vaccine via community clinics based on guidelines established by the Oregon Health Authority.

Contract maximum value is \$150,000.

This contract is effective January 1, 2022 and continues through December 31, 2022.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement with Sandy Fire District for COVID vaccine administration.

Respectfully submitted,

Rodney A. Cook, Director
Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND SANDY FIRE DISTRICT
Contract #10442**

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

RECITALS

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

Clackamas County desires to partner with Sandy Fire District in support of the County's efforts towards Reopening Clackamas as a component of the prerequisites required by the Governor's Office. The County is requesting local fire agencies to support distribution of COVID-19 vaccine via community clinics

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

TERMS

1. **Term.** This Agreement shall be effective January 1, 2022, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or December 31, 2022, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The County agrees to pay Agency, from available and authorized funds, a sum not to exceed one hundred fifty thousand dollars (\$150,000.) for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, the Agency shall submit monthly invoices for Work performed and shall include the total amount billed to date by the Agency prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to Agency following the County's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
 - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

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

7. Indemnification.

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

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

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

- A. Philip Mason-Joyner, Public Health Director, or their designee will act as liaison for the County.

Contact Information:

503-742-5956 - PMason@clackamas.us

Chief Phil Schneider, Fire Chief, or their designee will act as liaison for the Agency.

Contact Information:

503-668-8093 - p.schneider@sandyfire.org

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including HIPAA and state privacy laws. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. Hazard Communication.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County’s request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- F. Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- G. Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- H. Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- I. Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- J. Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- K. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- L. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- M. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- N. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- O. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- P. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- Q. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- S. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

Sandy Fire District

Intergovernmental Agreement #10442

Page 6 of 13

- T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

- U. **Federal terms.** Agency agrees to comply with the federal terms and conditions, and execute all required certifications, set forth in Exhibit B, attached hereto and incorporated by this reference herein.

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

Clackamas County

SANDY FIRE DISTRICT

Chair, Board of County Commissioners



Phil Schneider, Fire Chief

Date

11-16-2021

Date

Approved as to form:
Date: 11/15/2021

Kathleen J. Ricketts

**EXHIBIT A
SCOPE OF WORK**

Background and Purpose:

- The Clackamas County Public Health Division is requesting the support of local fire agencies in conducting distribution of COVID-19 vaccine via community clinics, drive-thru events, or other congregate settings (e.g. workplaces, retirement communities, and other congregate settings)

1) Vaccine Administration for COVID-19

Agency will:

- Will provide medical and administrative staff, as staffing allows, to community events to provide vaccine administration for eligible populations, when requested by the County.
- Enter vaccine administration data into the ALERT IIS system within 24 hours of clinic date for COVID vaccine.
- Assist in promoting community events via website, flyers, etc. when requested by the county.

County will:

- Support logistics coordination including event set-up (e.g. tents), paperwork, data entry technology (laptops, hot spots, extension cords), administrative and support staff, interpretation, traffic control, etc., if requested in advance and approved.
- Provide Vaccine.
- Providing culturally and linguistically appropriate staff as appropriate.
-

Compensation

- \$80 per Agency vaccination staff (medical Staff administering vaccines, administrative and support staff), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter (¼) hour increments.
- Agency to invoice CCPHD within 30 days of community event.

Method of Payment. To receive payment, Agency shall submit invoices as follows:

Agency shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract #10442, dates of service, assignment, number of hours billed, number of tests conducted, and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate Agency name and contract #10442 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided County has approved the service specified on the invoice, County shall pay the amount requested to Agency.

EXHIBIT B
ADDITIONAL FEDERAL TERMS AND CONDITIONS

As used herein, "Contractor" means SANDY FIRE DISTRICT, and "County" means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (4s U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Sandy Fire District

Intergovernmental Agreement #10442

Page 10 of 13

5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.
6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers 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.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict 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. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://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. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and

Sandy Fire District

Intergovernmental Agreement #10442

Page 11 of 13

transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. DHS Seal, Logo, and Flags: Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. Compliance with Federal Law, Regulations, and Executive Orders: This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. No Obligation by Federal Government: The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. Program Fraud and False or Fraudulent Statements or Related Acts: Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. Procurement of Recovered Materials (Reference 2 CFR 200.322): Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

Byrd Anti-Lobbying Amendment Certification
for Contracts, Grants, Loans, and Cooperative Agreements

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

- A. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. 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. 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.

The Contractor, SANDY FIRE DISTRICT, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Phil Schneider, Fire Chief
Name and Title of Contractor's Authorized Official

11-16-2021
Date

December 9, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement with Molalla Fire District for COVID vaccine administration. Contract maximum value is \$150,000. Funding through the ARPA and FEMA funding

No County General Funds are Involved

Purpose/Outcomes	Provide distribution of COVID vaccine via community clinics.
Dollar Amount and Fiscal Impact	Contract maximum value is \$150,000.
Funding Source	Funding through the ARPA and FEMA funding. No County General Funds are involved.
Duration	January 1, 2022 and terminates on December 31, 2022
Previous Board Action	Item approved at issues 12/7/21
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on November 15, 2021 - KR
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. The documents are IGA's.
Contact Person	Philip Mason-Joyner, EOC Command – (503) 742-5956
Contract No.	10441

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Intergovernmental Agreement with Molalla Fire District for COVID vaccine administration.

Clackamas County desires to partner with local fire agencies to conduct COVID-19 testing and distribution of COVID vaccine via community clinics based on guidelines established by the Oregon Health Authority.

Contract maximum value is \$150,000.

This contract is effective January 1, 2022 and continues through December 31, 2022.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement with Molallsa Fire District for COVID vaccine administration.

Respectfully submitted,

Rodney A. Cook, Director
Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND MOLALLA FIRE DISTRICT
Contract #10441**

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

RECITALS

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

Clackamas County desires to partner with Molalla Fire District in support of the County's efforts towards Reopening Clackamas as a component of the prerequisites required by the Governor's Office. The County is requesting local fire agencies to support distribution of COVID-19 vaccine via community clinics

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

TERMS

1. **Term.** This Agreement shall be effective January 1, 2022, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or December 31, 2022, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The County agrees to pay Agency, from available and authorized funds, a sum not to exceed one hundred fifty thousand dollars (\$150,000.) for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, the Agency shall submit monthly invoices for Work performed and shall include the total amount billed to date by the Agency prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to Agency following the County's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
 - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

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

7. Indemnification.

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

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

Molalla Fire District

Intergovernmental Agreement #10441

Page 3 of 13

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

- A. Philip Mason-Joyner, Public Health Director, or their designee will act as liaison for the County.

Contact Information:

503-742-5956 - PMason@clackamas.us

Chief Vince Stafford, Fire Chief, or their designee will act as liaison for the Agency.

Contact Information:

(503) 829-2200- vstafford@molallafire.org

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including HIPAA and state privacy laws. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Hazard Communication.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- F. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- G. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- H. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- I. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- J. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- K. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- L. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- M. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- N. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- O. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- P. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- Q. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- S. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

- T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- U. **Federal terms.** Agency agrees to comply with the federal terms and conditions, and execute all required certifications, set forth in Exhibit D, attached hereto and incorporated by this reference herein.

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

Clackamas County

MOLALLA FIRE DISTRICT

Chair, Board of County Commissioners



Vince Stafford, Fire Chief

Date



Date



Approved as to form:
Date: 11/15/2021

EXHIBIT A SCOPE OF WORK

Background and Purpose:

- The Clackamas County Public Health Division is requesting the support of local fire agencies in conducting distribution of COVID-19 vaccine via community clinics, drive-thru events, or other congregate settings (e.g. workplaces, retirement communities, and other congregate settings)

1) Vaccine Administration for COVID-19

Agency will:

- Will provide medical and administrative staff, as staffing allows, to community events to provide vaccine administration for eligible populations, when requested by the County.
- Enter vaccine administration data into the ALERT IIS system within 24 hours of clinic date for COVID vaccine.
- Assist in promoting community events via website, flyers, etc. when requested by the county.

County will:

- Support logistics coordination including event set-up (e.g. tents), paperwork, data entry technology (laptops, hot spots, extension cords), administrative and support staff, interpretation, traffic control, etc., if requested in advance and approved.
- Provide Vaccine.
- Providing culturally and linguistically appropriate staff as appropriate.

Compensation

- \$80 per vaccination staff (medical Staff administering vaccines), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter ($\frac{1}{4}$) hour increments.
- \$30 per support and administrative staff (Non-medical staff), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter ($\frac{1}{4}$) hour increments.
- Agency to invoice CCPHD within 30 days of community event.

Method of Payment. To receive payment, Agency shall submit invoices as follows:

Agency shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract #10441, dates of service, assignment, number of hours billed, number of tests conducted, and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate Agency name and contract #10441 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided County has approved the service specified on the invoice, County shall pay the amount requested to Agency.

EXHIBIT B
ADDITIONAL FEDERAL TERMS AND CONDITIONS

As used herein, "Contractor" means MOLALLA FIRE DISTRICT, and "County" means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating to nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Molalla Fire District

Intergovernmental Agreement #10441

Page 10 of 13

5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.
6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers 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.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict 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. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://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. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and

transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. DHS Seal, Logo, and Flags: Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. Compliance with Federal Law, Regulations, and Executive Orders: This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. No Obligation by Federal Government: The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. Program Fraud and False or Fraudulent Statements or Related Acts: Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. Procurement of Recovered Materials (Reference 2 CFR 200.322): Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

Byrd Anti-Lobbying Amendment Certification
for Contracts, Grants, Loans, and Cooperative Agreements

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

- A. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. 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. 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.

The Contractor, MOLALLA FIRE DISTRICT, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Vince Stafford, Fire Chief

Name and Title of Contractor's Authorized Official

11-23-2021

Date

**INVOICE
SAMPLE**

Date: _____

MOLALLA FIRE DISTRICT

Address:

City, State, Zip

Code

Phone: (XXX)XXX-XXXX

Program: Immunizations

SASMP

To: Clackamas County Public Health Division
 Attention: Accounts Payable
 2051 Kaen Road, # 367
 Oregon City, Oregon 97045
 Direct Line: (503)742-5302
 Fax: (503)742-5979

Or electronically to: PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate CONTRACTOR name and contract # 9911 in the subject of the e-mail.

Contract # 10441

Month Service Provided
Month-Year

DATES OF SERVICE	SERVICE DESCRIPTION	LINE TOTAL
02/10/21	# of hours per person (2hrsx\$50per hr. x 2 staff)	\$200.
		6
	# of Covid-19 vaccines administered	0
	Grand Total	\$200.

December 9, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement with Hoodland Fire District for COVID vaccine administration. Contract maximum value is \$150,000. Funding through the ARPA and FEMA funding

No County General Funds are Involved

Purpose/Outcomes	Provide distribution of COVID vaccine via community clinics.
Dollar Amount and Fiscal Impact	Contract maximum value is \$150,000.
Funding Source	Funding through the ARPA and FEMA funding. No County General Funds are involved.
Duration	January 1, 2022 and terminates on December 31, 2022
Previous Board Action	Item approved at issues 12/7/21
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on November 15, 2021 - KR
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. The documents are IGA's.
Contact Person	Philip Mason-Joyner, EOC Command – (503) 742-5956
Contract No.	10440

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Intergovernmental Agreement with Hoodland Fire District for COVID vaccine administration.

Clackamas County desires to partner with local fire agencies to conduct COVID-19 testing and distribution of COVID vaccine via community clinics based on guidelines established by the Oregon Health Authority.

Contract maximum value is \$150,000.

This contract is effective January 1, 2022 and continues through December 31, 2022.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement with Hoodland Fire District for COVID vaccine administration.

Respectfully submitted,

Rodney A. Cook, Director
Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND HOODLAND FIRE DISTRICT
Contract #10440**

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

RECITALS

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

Clackamas County desires to partner with Hoodland Fire District in support of the County's efforts towards Reopening Clackamas as a component of the prerequisites required by the Governor's Office. The County is requesting local fire agencies to support distribution of COVID-19 vaccine via community clinics

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

TERMS

1. **Term.** This Agreement shall be effective January 1, 2022, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or December 31, 2022, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The County agrees to pay Agency, from available and authorized funds, a sum not to exceed one hundred fifty thousand dollars (\$150,000.) for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, the Agency shall submit monthly invoices for Work performed and shall include the total amount billed to date by the Agency prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to Agency following the County's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
 - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

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

7. Indemnification.

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

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

Hoodland Fire District

Intergovernmental Agreement #10440

Page 3 of 13

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

- A. Philip Mason-Joyner, Public Health Director, or their designee will act as liaison for the County.

Contact Information:

503-742-5956 - PMason@clackamas.us

Chief Jim Price, Fire Chief, or their designee will act as liaison for the Agency.

Contact Information:

(503) 622-3256- jimprice@hoodlandfire.org

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including HIPAA and state privacy laws. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Hazard Communication.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- F. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- G. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- H. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- I. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- J. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties

Hoodland Fire District

Intergovernmental Agreement #10440

Page 5 of 13

any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- K. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- L. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- M. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- N. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- O. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- P. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- Q. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- S. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose

Hoodland Fire District

Intergovernmental Agreement #10440

Page 6 of 13

Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

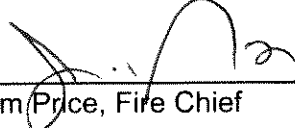
- T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- U. **Federal terms.** Agency agrees to comply with the federal terms and conditions, and execute all required certifications, set forth in Exhibit B, attached hereto and incorporated by this reference herein.

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

Clackamas County

HOODLAND FIRE DISTRICT

Chair, Board of County Commissioners



Jim Price, Fire Chief

Date

11-16-2021

Date



Approved as to form:
Date: 11/15/2021

EXHIBIT A SCOPE OF WORK

Background and Purpose:

- The Clackamas County Public Health Division is requesting the support of local fire agencies in conducting distribution of COVID-19 vaccine via community clinics, drive-thru events, or other congregate settings (e.g. workplaces, retirement communities, and other congregate settings)

1) Vaccine Administration for COVID-19

Agency will:

- Will provide medical and administrative staff, as staffing allows, to community events to provide vaccine administration for eligible populations, when requested by the County.
- Enter vaccine administration data into the ALERT IIS system within 24 hours of clinic date for COVID vaccine.
- Assist in promoting community events via website, flyers, etc. when requested by the county.

County will:

- Support logistics coordination including event set-up (e.g. tents), paperwork, data entry technology (laptops, hot spots, extension cords), administrative and support staff, interpretation, traffic control, etc., if requested in advance and approved.
- Provide Vaccine.
- Providing culturally and linguistically appropriate staff as appropriate.
-

Compensation

- \$80 per vaccination staff (medical Staff administering vaccines), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter (¼) hour increments.
- \$30 per support and administrative staff (Non-medical staff), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter (¼) hour increments.
- Agency to invoice CCPHD within 30 days of community event.

Method of Payment. To receive payment, Agency shall submit invoices as follows:

Agency shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract #10440, dates of service, assignment, number of hours billed, number of tests conducted, and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

Hoodland Fire District

Intergovernmental Agreement #10440

Page 8 of 13

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate Agency name and contract #10440 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided County has approved the service specified on the invoice, County shall pay the amount requested to Agency.

EXHIBIT B
ADDITIONAL FEDERAL TERMS AND CONDITIONS

As used herein, "Contractor" means HOODLAND FIRE DISTRICT, and "County" means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (4s U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Hoodland Fire District

Intergovernmental Agreement #10440

Page 10 of 13

5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.
6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers 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.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict 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. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://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. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and

Hoodland Fire District

Intergovernmental Agreement #10440

Page 11 of 13

transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. **DHS Seal, Logo, and Flags:** Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. **Compliance with Federal Law, Regulations, and Executive Orders:** This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. **No Obligation by Federal Government:** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. **Program Fraud and False or Fraudulent Statements or Related Acts:** Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. **Procurement of Recovered Materials (Reference 2 CFR 200.322):** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

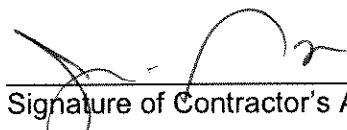
Byrd Anti-Lobbying Amendment Certification
for Contracts, Grants, Loans, and Cooperative Agreements

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

- A. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. 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. 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.

The Contractor, HOODLAND FIRE DISTRICT, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Jim Price, Fire Chief

Name and Title of Contractor's Authorized Official

11/16/21

Date

December 9, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement with Clackamas Fire District for COVID vaccine administration. Contract maximum value is \$150,000. Funding through the ARPA and FEMA funding

No County General Funds are Involved

Purpose/Outcomes	Provide distribution of COVID vaccine via community clinics.
Dollar Amount and Fiscal Impact	Contract maximum value is \$150,000.
Funding Source	Funding through the ARPA and FEMA funding. No County General Funds are involved.
Duration	January 1, 2022 and terminates on December 31, 2022
Previous Board Action	Item approved at issues 12/7/21
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on November 15, 2021 - KR
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. The documents are IGA's.
Contact Person	Philip Mason-Joyner, EOC Command – (503) 742-5956
Contract No.	10439

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Intergovernmental Agreement with Clackamas Fire District for COVID vaccine administration.

Clackamas County desires to partner with local fire agencies to conduct COVID-19 testing and distribution of COVID vaccine via community clinics based on guidelines established by the Oregon Health Authority.

Contract maximum value is \$150,000.

This contract is effective January 1, 2022 and continues through December 31, 2022.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement with Clackamas Fire District for COVID vaccine administration.

Respectfully submitted,

Rodney A. Cook, Director
Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CLACKAMAS COUNTY FIRE DISTRICT #1
Contract #10439**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Clackamas County Fire District #1 (Agency"), an Oregon municipal corporation, collectively referred to as the "Parties" and each a "Party."

RECITALS

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

Clackamas County desires to partner with Clackamas County Fire District #1 in support of the County's efforts towards Reopening Clackamas as a component of the prerequisites required by the Governor's Office. The County is requesting local fire agencies to conduct distribution of COVID vaccine via community clinics

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

TERMS

1. **Term.** This Agreement shall be effective January 1, 2022, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or December 31, 2022, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The County agrees to pay Agency, from available and authorized funds, a sum not to exceed one hundred fifty thousand dollars (\$150,000.) for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, the Agency shall submit monthly invoices for Work performed and shall include the total amount billed to date by the Agency prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to Agency following the County's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
 - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

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

7. Indemnification.

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

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

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

- A. Philip Mason-Joyner, Public Health Director, or their designee will act as liaison for the County.

Contact Information:

503-742-5956 - PMason@clackamas.us

Josh Santos, Medical Services Chief, or their designee will act as liaison for the Agency.

Contact Information:

503-742-2777- Josh.Santos@ClackamasFire.com

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including HIPAA and state privacy laws. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Hazard Communication.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County’s request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- F. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- G. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- H. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- I. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- J. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties

any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- K. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- L. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- M. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- N. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- O. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- P. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- Q. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- S. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose

Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

- T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- U. **Federal terms.** Agency agrees to comply with the federal terms and conditions, and execute all required certifications, set forth in Exhibit B, attached hereto and incorporated by this reference herein.

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

Clackamas County

Clackamas County Fire District #1

Chair, Board of County Commissioners

Nick J. Browne

Nick Browne, Fire Chief

Date

11/17/2021

Date

Kathleen J. Rasketter

Approved as to form:
Date: 11/15/2021

EXHIBIT A SCOPE OF WORK

Background and Purpose:

- The Clackamas County Public Health Division is requesting the support of local fire agencies in conducting distribution of COVID vaccine via community clinics, drive-thru events, or other congregate settings (e.g. workplaces, retirement communities, and other congregate settings)

1) Vaccine Administration for COVID-19

Agency will:

- Host events to provide vaccine administration for eligible populations **when requested in advance and approved.**
- Enter vaccine administration data into the ALERT IIS system within 24 hours of clinic date for COVID vaccine.
- Assist in promoting community events via website, flyers, etc. when requested by the county
- Be responsible for all vaccine administration supplies including PPE, syringes, alcohol wipes, cotton balls, bandages, sharps containers, etc. County will provide vaccine
- Provide logistics coordination including event set-up (e.g. tents), paperwork, data entry technology (laptops, hot spots, extension cords), administrative and support staff, interpretation, traffic control, etc. unless requested in advance and approved by County.

County will:

- Support logistics coordination including event set-up (e.g. tents), paperwork, data entry technology (laptops, hot spots, extension cords), administrative and support staff, interpretation, traffic control, etc., if requested in advance and approved.
- County will provide vaccine.
- Request to be submitted to: covidvaccine@clackamas.us
- assist with providing culturally and linguistically appropriate staff as appropriate, if requested in advance and approved

Compensation

- \$80 per Agency vaccination staff (medical Staff administering vaccines, administrative and support staff), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter ($\frac{1}{4}$) hour increments.
- Agency to invoice CCPHD within 30 days of community event.

Method of Payment. To receive payment, Agency shall submit invoices as follows:

Agency shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract #10439, dates of service, assignment, number of hours billed, number of tests conducted, and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Fire District #1
Intergovernmental Agreement #10439
Page 8 of 13

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate Agency name and contract #10439 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided County has approved the service specified on the invoice, County shall pay the amount requested to Agency.

EXHIBIT B
ADDITIONAL FEDERAL TERMS AND CONDITIONS

As used herein, "Contractor" means Clackamas County Fire District #1, and "County" means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (4s U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.
6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers 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.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict 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. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://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. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly

pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. DHS Seal, Logo, and Flags: Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. Compliance with Federal Law, Regulations, and Executive Orders: This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. No Obligation by Federal Government: The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. Program Fraud and False or Fraudulent Statements or Related Acts: Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. Procurement of Recovered Materials (Reference 2 CFR 200.322): Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

Byrd Anti-Lobbying Amendment Certification
for Contracts, Grants, Loans, and Cooperative Agreements

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

- A. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. 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. 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.

The Contractor, Clackamas County Fire District #1, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Nick J. Browne

Signature of Contractor's Authorized Official

Nick Browne, Fire Chief
Name and Title of Contractor's Authorized Official

11/17/2021

Date

December 9, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement with Canby Fire District for COVID vaccine administration. Contract maximum value is \$150,000. Funding through the ARPA and FEMA funding

No County General Funds are Involved

Purpose/Outcomes	Provide distribution of COVID vaccine via community clinics.
Dollar Amount and Fiscal Impact	Contract maximum value is \$150,000.
Funding Source	Funding through the ARPA and FEMA funding. No County General Funds are involved.
Duration	January 1, 2022 and terminates on December 31, 2022
Previous Board Action	Item approved at issues 12/7/21
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on November 15, 2021 - KR
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. The documents are IGA's.
Contact Person	Philip Mason-Joyner, EOC Command – (503) 742-5956
Contract No.	10432

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Intergovernmental Agreement with Canby Fire District for COVID vaccine administration.

Clackamas County desires to partner with local fire agencies to conduct COVID-19 testing and distribution of COVID vaccine via community clinics based on guidelines established by the Oregon Health Authority.

Contract maximum value is \$150,000.

This contract is effective January 1, 2022 and continues through December 31, 2022.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement with Canby Fire District for COVID vaccine administration.

Respectfully submitted,

Rodney A. Cook, Director
Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CANBY FIRE DISTRICT
Contract #10432**

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

RECITALS

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

Clackamas County desires to partner with Canby Fire District in support of the County's efforts towards Reopening Clackamas as a component of the prerequisites required by the Governor's Office. The County is requesting local fire agencies to support distribution of COVID-19 vaccine via community clinics

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

TERMS

1. **Term.** This Agreement shall be effective January 1, 2022, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or December 31, 2022, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The County agrees to pay Agency, from available and authorized funds, a sum not to exceed one hundred fifty thousand dollars (\$150,000.) for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, the Agency shall submit monthly invoices for Work performed and shall include the total amount billed to date by the Agency prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to Agency following the County's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
 - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

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

7. Indemnification.

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

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

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

- A. Philip Mason-Joyner, Public Health Director, or their designee will act as liaison for the County.

Contact Information:

503-742-5956 - PMason@clackamas.us

Chief Matt Dale, DC Paramedic, or their designee will act as liaison for the Agency.

Contact Information:

971-413-0419 - mdale@canbyfire.org

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including HIPAA and state privacy laws. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- E. Hazard Communication.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- F. Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- G. Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- H. Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- I. Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- J. Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- K. No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- L. Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- M. Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- N. Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- O. Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- P. Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- Q. Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- S. Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

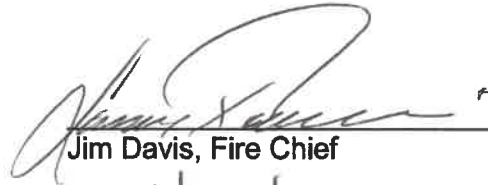
- T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- U. **Federal terms.** Agency agrees to comply with the federal terms and conditions, and execute all required certifications, set forth in Exhibit D, attached hereto and incorporated by this reference herein.

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

Clackamas County

CANBY FIRE DISTRICT

Chair, Board of County Commissioners



Jim Davis, Fire Chief

Date

11/14/2021

Date

Approved as to form: _
Date: 11/15/2021



EXHIBIT A SCOPE OF WORK

Background and Purpose:

- The Clackamas County Public Health Division is requesting the support of local fire agencies in conducting distribution of COVID-19 vaccine via community clinics, drive-thru events, or other congregate settings (e.g. workplaces, retirement communities, and other congregate settings)

1) Vaccine Administration for COVID-19

Agency will:

- Will provide medical and administrative staff, as staffing allows, to community events to provide vaccine administration for eligible populations, when requested by the County.
- Enter vaccine administration data into the ALERT IIS system within 24 hours of clinic date for COVID vaccine.
- Assist in promoting community events via website, flyers, etc. when requested by the county.

County will:

- Support logistics coordination including event set-up (e.g. tents), paperwork, data entry technology (laptops, hot spots, extension cords), administrative and support staff, interpretation, traffic control, etc., if requested in advance and approved.
- Provide Vaccine.
- Providing culturally and linguistically appropriate staff as appropriate.
-

Compensation

- \$80 per vaccination staff (medical Staff administering vaccines), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter (¼) hour increments.
- \$30 per support and administrative staff (Non-medical staff), per hour. If services rendered are less than one full hour, Agency will bill CCPHD in one-quarter (¼) hour increments.
- Agency to invoice CCPHD within 30 days of community event.

Method of Payment. To receive payment, Agency shall submit invoices as follows:

Agency shall submit invoices by the tenth day of the month following that in which service was performed. The invoice shall list the contract #10432, dates of service, assignment, number of hours billed, number of tests conducted, and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

PublicHealthFiscalAP@clackamas.us

When submitting electronically, designate Agency name and contract #10432 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided County has approved the service specified on the invoice, County shall pay the amount requested to Agency.

EXHIBIT B
ADDITIONAL FEDERAL TERMS AND CONDITIONS

As used herein, "Contractor" means CANBY FIRE DISTRICT, and "County" means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (4s U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.
6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers 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.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict 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. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://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. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and

transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. **DHS Seal, Logo, and Flags:** Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. **Compliance with Federal Law, Regulations, and Executive Orders:** This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. **No Obligation by Federal Government:** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. **Program Fraud and False or Fraudulent Statements or Related Acts:** Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. **Procurement of Recovered Materials (Reference 2 CFR 200.322):** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

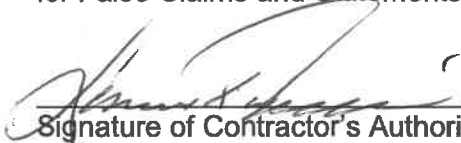
**Byrd Anti-Lobbying Amendment Certification
for Contracts, Grants, Loans, and Cooperative Agreements**

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

- A. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. 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. 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.

The Contractor, CANBY FIRE DISTRICT, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Jim Davis, Fire Chief
Name and Title of Contractor's Authorized Official

11/16/21
Date

December 9, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment 1 to the Ground Lease between Clackamas County
Development Agency and Clackamas County Pertaining to Property located at
16575 SE 115th Avenue for the continued site use for the Veterans Village Program
No County General Funds are involved

Purpose/ Outcomes	To insure that a location is available to continue operations of the successful Veterans Village program.
Dollar Amount and Fiscal Impact	Lessee pays lessor no rent. This is a Net Lease
Funding Source	N/A
Duration	October 1, 2021 – September 30, 2022, with option of one automatic additional extension to September 30, 2023.
Previous Board Action	Original Lease signed 11.8.18 Memo and issues topic presented to the Board on 11/18/21
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy, secure communities
Counsel Review	11.29.21 Nathan Boderman
Procurement Review	Was the item processed through Procurement? yes no(x) N/A
Contact Person	Rodney A. Cook, Director of Health, Housing & Human Services

BACKGROUND:

The Veterans Village is sited on a portion of a remnant property owned by the Clackamas County Development Agency at 16575 SE 115th Ave. Clackamas County began operation of the Veterans Village as a pilot transitional shelter community program in October of 2018. This program was enacted in alignment with the County’s strategic goal of ending veteran homelessness. At the end of the two-year pilot period, on December 15th, 2020, the Board of County Commissioners unanimously approved a resolution to continue the current operations of the program, negotiating an extension of the lease with the Development Agency while exploring options for the County, through H3S, to purchase the property for the continuation of the Veteran’s Village Program. As H3S continues to assess options and opportunities for additional transitional services, staff would request the Board support a one year extension on the current lease with an option of an automatic one additional year extension to provide additional time to assess options at this facility and elsewhere throughout the County. Unfortunately the current lease expired on September 30, 2021 so time is of the essence to ensure no interruption of service to the current occupants.

Healthy Families. Strong Communities.

PROCUREMENT PROCESS: N/A

RECOMMENDATION:

Staff recommends that the Board of County Commissioners of Clackamas County approve this amendment.

Respectfully submitted,

A handwritten signature in cursive script that reads "Rodney Cook".

Rodney A. Cook, Interim Director
Health, Housing & Human Services

**FIRST AMENDMENT TO THE GROUND LEASE BETWEEN CLACKAMAS COUNTY
DEVELOPMENT AGENCY AND CLACKAMAS COUNTY**

THIS FIRST AMENDMENT TO THE GROUND LEASE BETWEEN CLACKAMAS COUNTY DEVELOPMENT AGENCY AND CLACKAMAS COUNTY (“Amendment”) is entered into effective as of December __, 2021, between **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic (“**Lessor**”), and **Clackamas County**, a political subdivision of the State of Oregon, acting through the Clackamas County Department of Health, Housing and Human Services (“**Lessee**”).

RECITALS

A. Lessor and Lessee are parties to that certain Ground Lease dated effective as of October 1, 2018, (the “**Lease**”), concerning real property commonly known as 16575 SE 115th Avenue in Clackamas County, Oregon, and as more particularly described in the Lease (the “**Property**”).

B. Lessee has operated a pilot transitional shelter community program known as Veterans Village on the Property since October of 2018.

C. On December 15th, 2020, the Board of County Commissioners unanimously approved a resolution to allow Lessor to continue the current operations of the Veterans Village program, and to affirm its intent to continue with the lease of the Property from the Lessor while exploring options for the County, through its Department of Health, Housing and Human Services, to potentially purchase the Property for the continuation of the Veterans Village Program.

D. The Lease expired by its terms on September 30, 2021 and the parties desire to extend the term of the Lease on the terms and conditions set forth herein. All capitalized terms used in this Amendment and not otherwise defined herein shall have their meanings as set forth in the Lease.

AGREEMENT

1. **Amendment to Section 2.1. Section 2.1 of the Lease currently reads:**

Starting on the Commencement Date, the Premises will be leased for a term of approximately two (2) years ending on September 30, 2020 (the “Term”), unless earlier terminated pursuant to the terms of this Lease. This lease is renewable for one additional one (1) year term automatically unless one party provides notice of termination pursuant to paragraph 2.2.

Section 2.1 of the Lease is hereby deleted in its entirety and is replaced with the following:

Starting on the Commencement Date, the Premises will be leased for a term of four (4) years ending on September 30, 2022 (the “Term”), unless earlier terminated pursuant to the terms of this Lease. This lease is renewable for one additional one (1) year term automatically unless one party provides notice of termination pursuant to paragraph 2.2.

2. **Counterpart; Email.** This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment. Facsimile or email transmission of any signed original of this Amendment, and retransmission of any signed facsimile or email transmission, shall be the same as delivery of an original. At the request of either party, the parties shall confirm transmitted signatures by signing an original document.

3. **Confirmation.** The Lease is hereby amended and modified in accordance with the terms of this Amendment. Except as expressly modified by this Amendment, the Lease and all its terms and provisions are hereby acknowledged, approved, ratified and confirmed and shall be and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the date first written above.

LESSOR:

CLACKAMAS COUNTY DEVELOPMENT AGENCY
the Urban Renewal Agency of Clackamas County

By: _____

Name: Tootie Smith

Its: Chair – Clackamas County Development Agency Board

LESSEE:

CLACKAMAS COUNTY
a political subdivision of the State of Oregon

By: _____

Name: Tootie Smith

Its: Chair – Clackamas County Board of County Commissioners

**RECORDING REQUEST
AGREEMENTS/CONTRACTS**

ORIGINATING COUNTY
DEPARTMENT:

CLACKAMAS COUNTY DEVELOPMENT
AGENCY

OTHER PARTIES TO
CONTRACT/AGREEMENT:

CLACKAMAS COUNTY DEPARTMENT OF
HEALTH, HOUSING AND HUMAN SERVICES

BOARD AGENDA ITEM

NUMBER: Val

DATE: 11-8-18

PURPOSE OF
CONTRACT/AGREEMENT:

**Approval of a Ground Lease Between Clackamas County and
the Clackamas County Development Agency
Pertaining to Property located at
16575 SE 115th Avenue**

**After Recording, Please Return to:
Lori Phillips
Clackamas County Department of
Transportation & Development
150 Beaver Creek Rd.
Oregon City, OR 97045**

Clackamas County Official Records
Sherry Hall, County Clerk
Commissioners' Journals
Agreements & Contracts

2018-1783

11/13/2018 2:55:22 PM

2

GROUND LEASE BETWEEN
CLACKAMAS COUNTY DEVELOPMENT AGENCY
AND
CLACKAMAS COUNTY

This GROUND LEASE (this "Lease") is made and entered into on October 1, 2018 (the "Commencement Date"), by and between the Clackamas County Development Agency, the urban renewal agency of Clackamas County, a corporate body politic ("Lessor"), and Clackamas County, a political subdivision of the State of Oregon, acting through the Clackamas County Department of Health, Housing and Human Services ("Lessee").

RECITALS

A. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, the land depicted on Exhibit A attached hereto, together with any and all rights, privileges, easements, and appurtenances (collectively, the "Premises"), together with any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Improvements").

B. Lessor owns the Premises. Lessee owns certain Improvements, shelter buildings, intended to be placed upon the Premises, more specifically described on Exhibit B, attached hereto. Lessee owns the right to use the Premises and the Improvements for the term of the Lease.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Lease agree as follows:

Article 1

Premises

Lessor does hereby demise, lease, and let unto Lessee, and Lessee does hereby take and lease from Lessor, the Premises, including permission for continued use of the Improvements, for the Term (as defined below) and on the rents, conditions, and provisions herein.

Article 2

Lease Term

2.1 Lease Term. Starting on the Commencement Date, the Premises will be leased for a term of approximately two (2) years ending on September 30, 2020 (the "Term"), unless earlier terminated pursuant to the terms of this Lease. This lease is renewable for one additional one (1) year term automatically unless one party provides notice of termination pursuant to paragraph 2.2.

2.2 Early Termination. Notwithstanding anything in this Lease to the contrary, Lessor or Lessee may terminate the Lease upon providing the other party with written notice of intent to terminate at least 180 days prior to the desired termination date.

Article 3

Rent

3.1 Payment of Rent. Lessee shall pay Lessor no rent.

3.2 Net Lease. This Lease is a net lease. Lessee will be responsible for paying all costs and expenses relating to the Premises and the Improvements, including any real and personal property taxes, fees, utilities, maintenance, repairs, interior and exterior structural repairs, interior and exterior nonstructural repairs, insurance, and all other costs and expenses relating to the Premises and the Improvements. Without notice or demand and without abatement, deduction, or setoff except as may be otherwise provided in this Lease, Lessee is required to pay, all sums, impositions, costs, and other payments that Lessee assumes or agrees to pay in any provision of this Lease. If Lessee fails to make a payment, Lessor will have (in addition to all other rights and remedies) all the rights and remedies provided for in this Lease or by law for nonpayment of rent.

Article 4

USE AND COMPLIANCE WITH LEGAL REQUIREMENTS

4.1 Permitted Use. Lessee may use and occupy the Premises and the Improvements during the Term and shall use the Premises and the Improvements in compliance with all applicable Legal Requirements (as defined in section 4.2 below).

4.2 Compliance with Legal Requirements. Lessee shall observe and comply with all Legal Requirements that may apply to the Premises, or to the use or manner of uses of the Premises, or the Improvements or the owners or users of the Improvements, whether or not the Legal Requirements affect the interior or exterior of the Improvements, necessitate structural changes or improvements, or interfere with the use and enjoyment of the Premises or the Improvements, and whether or not compliance with the Legal Requirements is required by reason of any

condition, event, or circumstance existing before or after the Term. Lessee will pay all costs of compliance with the Legal Requirements.

“Legal Requirements” means all applicable present and future laws, ordinances, orders, rules, regulations, codes, and requirements of all federal, state, and municipal governments, departments, commissions, boards, and officers, that now or hereafter apply to the Premises, the Improvements, or any component hereof or any activity conducted thereon, including but not limited to those pertaining to Environmental Laws and the use and storage of Hazardous Substances (as these terms are defined below).

“Environmental Laws” means all present or future federal, state, and local laws or regulations related to the protection of health or the environment, including the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC § 6901 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC § 9601 *et seq.*), the Toxic Substances Control Act (15 USC § 2601 *et seq.*), the Federal Water Pollution Control Act (the Clean Water Act) (33 USC § 1251 *et seq.*), the Clean Air Act (42 USC § 7401 *et seq.*), amendments to the foregoing, and any rules and regulations promulgated thereunder.

“Hazardous Substances” means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local, state, or federal governmental authority, including without limitation, any hazardous material, hazardous substance, ultra-hazardous material, toxic waste, toxic substance, pollutant, radioactive material, petroleum product, and PCB, as those and similar terms are commonly used or defined by Environmental Laws.

4.3 Prohibited Uses. Lessee shall not use or occupy the Premises or the Improvements, or permit or suffer all or any part of the Premises or the Improvements to be used or occupied: (a) for any unlawful or illegal business, use, or purpose; (b) in any manner so as to constitute a nuisance of any kind; (c) for any purpose or in any way in violation of the certificate of occupancy, or of any Legal Requirements, including Legal Requirements respecting Hazardous Substances; or (d) for any business, use, or purpose deemed disreputable.

4.4 No Waste. Lessee shall not cause or permit any waste, damage, disfigurement, or injury to the Premises, but Lessee may demolish and remove any and all the Improvements on the Premises at Lessee’s own expense and pursuant to and in accordance with the terms of Article 5 below.

Article 5

Improvements

5.1 Construction, Modification, and Demolition of Improvements. Upon obtaining Lessor’s prior written approval, Lessee may, at any time and from time to time during the Term at its cost and expense, construct, reconstruct, demolish, remove, replace, remodel, or rebuild on any part or all of the Premises such buildings, structures, parking areas, driveways, walks, and other Improvements of any nature (including excavation, earthmoving, paving, installation or relocation of utilities, and all other development activities) pertaining thereto as Lessee.

Construction of any buildings or improvements will be undertaken in compliance with all Legal Requirements and will be performed in a good and workmanlike manner, and which shall be removed from the Premises prior to the end of this Lease unless renewed. Utilities installed at the Premises shall not be demolished or removed without prior written approval of the Lessor.

5.2 Lessor Cooperation. Lessor shall reasonably cooperate with Lessee in connection with Lessee's construction of any Improvements, including but not limited to executing any applications and other instruments reasonably necessary for construction of the Improvements at Lessee's expense, and further provided that Lessor is not required to pay any application fees or incur any other costs or liabilities in connection with the Improvements.

5.3 Easements and Dedications. Lessee and Lessor each recognize that in order to provide for the development of the Premises, it may be necessary, desirable, or required that street, water, sewer, drainage, gas, power line, and other easements and dedications and similar rights be granted or dedicated over or within portions of the Premises. Lessor shall, upon request of Lessee, join with Lessee in executing and delivering such documents, from time to time, and throughout the Term of this Lease as may be appropriate, necessary, or required by any governmental agency or public utility company for the purpose of granting such easements and dedications.

Article 6

Taxes and Utilities

6.1 Taxes Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises or the Improvements, or based on or otherwise in connection with the use, occupancy, or operations of the Premises or the Improvements, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises or the Improvements, or on Lessor with respect to the Premises or the Improvements, or on any act of leasing space in the Improvements, or in connection with the business of leasing space in the Improvements, including any tax on rents, whether direct or as a part of any "gross receipts" tax, and whether or not in lieu of, in whole or in part, ad valorem property taxes. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises or the Improvements, including, but not limited to, any road-user or transportation-system-maintenance fee and any charges or fees measured by trip generation or length, parking spaces, impervious surfaces, buildings, vehicle usage, or similar bases for measurement.

6.2 Payment of Taxes. Throughout the Term, Lessee shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer

be paid, in installments, Lessee may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.

6.3 Contesting Taxes. If Lessee in good faith desires to contest the validity or the amount of any Tax, Lessee may be permitted to do so by giving to Lessor written notice requesting permission to do so before commencement of such contest. If approved, Lessee may contest with respect to the Property and/or the Improvements. Lessor may, at Lessee's expense (including reimbursement of attorney fees reasonably incurred by Lessor), cooperate with Lessee in any such contest to the extent that Lessee may reasonably request, but Lessor shall not be subject to any liability for the payment of any costs or expenses in connection with any proceeding brought by Lessee, and Lessee shall indemnify and save Lessor harmless from any such costs or expenses. Any rebates on account of the Taxes required to be paid and paid by Lessee under the provisions of this Lease shall belong to Lessee, except that to the extent any rebates or refunds are related to a period of time in which this Lease is not in effect (either before commencement or after expiration or termination), the portion of the rebate attributable to such time shall be returned to Lessor to the extent previously paid by Lessor.

6.4 Evidence of Payment. Promptly after payment, Lessee shall provide Lessor with evidence reasonably satisfactory to Lessor that all Taxes required to be paid by Lessee have been paid.

6.5 Utilities and Services. Lessee shall pay, directly to the appropriate supplier, for all water, sanitary-sewer, storm sewer, gas, electric, telephone, cable, garbage pickup, and all other utilities and services used by Lessee on the Premises as they become due, together with any taxes thereon, from and after the Commencement Date. Lessor shall not be in default hereunder nor be liable in damages or otherwise for any failure or interruption of any utility or other service being furnished to the Premises, and no such failure or interruption will entitle Lessee to terminate this Lease.

Article 7

Insurance

7.1 Fire and Casualty Insurance. Lessee shall keep the Premises and improvements insured at Lessee's expense against fire and other risks covered by an All Risk Property Coverage policy, and other policies as appropriate. The insurance shall be maintained (without any co insurance clause) in an amount equal to the greater of the fair market value of the Premises and improvements or the amount required by any mortgagee of the Premises, or absent such requirement, in an amount sufficient to prevent Lessor and Lessee from becoming co insurers under applicable provisions of the insurance policy. Said coverage may be through self-insurance, through an insurance pool established for the benefit of governmental entities or from a general insurance carrier that meets the requirements set out below.

7.2 Liability Insurance. Lessee, at its cost and expense, shall maintain general liability insurance coverage sufficient to cover liability that may be imposed due to the condition of the

premises and the activities conducted thereon. Said coverage may be through self-insurance, through an insurance pool established for the benefit of governmental entities or from a general insurance carrier that meets the requirements set out below.

7.3 Additional Requirements. In the event that a policy is obtained from a commercial carrier the carrier(s) shall be a reputable insurance company acceptable to Lessor, licensed to do business in the State of Oregon, and have a minimum A-VIII rating as determined by the then-current edition of *Best's Insurance Reports* published by A.M. Best Co. Lessee shall provide Lessor with certificates of insurance concurrently with the execution of this Lease and upon each renewal thereafter to establish that Lessee's insurance obligations have been met and that the policies are not subject to cancellation or material change without at least 30 days advance written notice to Lessor; provided, however, that Lessor may inspect and require full copies of all insurance policies to be provided to Lessor.

Article 8

Release and Indemnification

8.1 Release. Lessee shall be in exclusive control of the Premises, and Lessor shall not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in, or about the Premises or the Lessee owned or leased Improvements, or any injury or damage to the Premises or the Lessee owned Improvements or to any property, whether belonging to Lessee or to any other person, caused by any fire, breakage, leakage, defect, or condition on any part of the Premises or the Lessee owned or leased Improvements, or from steam, gas, electricity, water, rain, or snow that may leak into, issue, or flow from any part of the Premises or the Lessee owned or leased Improvements from the drains, pipes, or plumbing work of the same, or from the street, subsurface, or any place or quarter, or because of the use, misuse, or abuse of all or any of the Premises or the Lessee owned or leased Improvements, or from any kind of injury that may arise from any other cause whatsoever on the Premises or in or on the Lessee owned or leased Improvements, including defects in construction of the Lessee owned or leased Improvements, latent or otherwise; and Lessee hereby releases Lessor from and against any and all liabilities resulting from any such injuries and damages. Lessor acknowledges that it remains responsible for liability to any third party to the extent that the liability arises from Lessor's gross negligence or willful misconduct that causes damage or injury to persons or property on the Premises.

8.2 Indemnification. Except to the extent caused by the gross negligence or willful misconduct of Lessor, Lessee shall indemnify, defend and hold Lessor harmless from and against any and all liabilities, obligations, damages, fines, penalties, claims, costs, except for attorney's fees, charges, and expenses (including, without limitation, environmental response and remedial costs; environmental consultant and laboratory fees; and natural resource damages) that may be imposed on or incurred by or asserted against Lessor arising from or related to the activities of the Lessee conducted on the Premises during the term of this Lease.

Article 9

Liens

9.1 No Liens. Lessee shall not suffer or permit any construction liens to attach to or be filed against any part of the Premises or the Improvements owned by Lessor by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Lessee or any person occupying or holding an interest in any part of the Premises or the Improvements owned by Lessee. If any such lien is filed against any portion of the Premises or the Improvements, Lessee shall cause the same to be discharged of record within 15 days after the date of its filing by payment, deposit, or bond.

9.2 Lessor Right to Post Notices. Lessor may post and keep posted at all reasonable times on the Premises and the Improvements notices of non-responsibility and any other notices that Lessor desires or is required to post for the protection of Lessor's interest in the Premises and the Improvements from any such lien.

9.3 No Right to Lien Lessor's Interest. Nothing in this Lease may be deemed to be, or be construed in any way as constituting, the consent or request of Lessor, express or implied, by inference or otherwise, to any person, firm, or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration, or repair of or to the Premises or to the Improvements, or as giving Lessee any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against Lessor's interest in the Premises or against Lessor's interest, if any, in the Improvements. Lessee shall not be an agent for Lessor.

Article 10

Repairs and Maintenance

10.1 Lessee Obligation. Lessee must maintain, repair and replace the Premises and the Lessor owned Improvements as and when needed so as to keep them clean and in good condition and repair, throughout the entire Term. Lessee's obligations extend to both structural and nonstructural items and to all maintenance, repair, and replacement work.

10.2 Lessor Obligation. Consistent with Section 6.5 of this Lease, Lessor is not required to furnish to Lessee, the Premises, or the Improvements any facilities, utilities, or services of any kind whatsoever during the Term, such as, but not limited to, water, sanitary sewer, storm sewer, gas, electric, telephone, cable, garbage pickup, or any other utilities or services used by Lessee. Lessor is not required to make any alterations, re-buildings, replacements, changes, additions, improvements, or repairs to any portion of the Premises or the Improvements during the Term.

10.3 Lessee Environmental Obligations. Lessee shall take all the responsibilities to environmental issues and damages on the Premises and the Improvements related to its activities.

10.4 Limited Assignment of Rights. Lessor shall assign to Lessee, without recourse, any rights that Lessor may have against any parties causing damage to the Lessee owned Improvements on the Premises to sue for and recover amounts expended by Lessee as a result of the damage.

Article 11

Inspection and Access

Lessor may enter onto the Premises and the Improvements at reasonable times during reasonable business hours for the purposes of allowing potential buyers or tenants to perform inspections, to inspect and take measurements, samples or other activities to access any potential contamination issues and ensure compliance with the terms of this Lease. Nothing in this Lease implies any duty or obligation, however, on Lessor's part to make such inspections or perform such work (including, but not limited to, repairs and other restoration work made necessary because of any fire or other casualty or partial condemnation, irrespective of the sufficiency or availability of any property or other insurance proceeds, or any award in condemnation, that may be payable). Lessor's performance of any work will not constitute a waiver of Lessee's default in failing to perform the same.

Article 12

Damage and Destruction

If any Lessee owned Improvement(s) on the Premises are damaged or destroyed by flood, fire or other casualty, Lessee's obligations under the lease will not abate and Lessee shall promptly determine whether to repair, replace, reconstruct, demolish or abandon the Improvement(s). Lessee shall promptly inform Lessor of its decision and its proposed plan of action. Should the Lessee decide to abandon or demolish the damaged Lessee owned Improvement(s) Lessee shall at Lessee's expense clear the remains of the Improvement(s) from the premises unless otherwise directed by Lessor.

Article 13

Condemnation

13.1 Total Taking. If all the Premises and the Improvements are taken or condemned by right of eminent domain or by purchase in lieu of condemnation (a "Taking"), or if in Lessee's reasonable judgment the Taking of any portion of the Premises or the Improvements renders the portion remaining insufficient and unsuitable to permit the restoration of the Improvements following the Taking, then Lessee may terminate this Lease by providing written notice thereof to Lessor within 30 days after Lessee is notified of the Taking, in which case the Lease will cease and terminate (except those provisions intended to survive the expiration or termination of the Lease) and Lessee shall vacate the Premises and the Improvements as of the date on which the condemning authority takes possession (any Taking in this section being called a "Total Taking").

13.2 Award for Total Taking. If this Lease terminates as a result of a Total Taking, the rights and interests of the parties will be determined as follows:

(a) The total award or awards for the Total Taking will be apportioned and paid in the following order of priority:

(i) Lessor will have the right to receive directly from the condemning authority, in its entirety and not subject to any trust, a portion of the award that is defined and referred to as the Land Award (as defined below), and Lessee will not be entitled to receive any part of the Land Award. The term "Land Award" means that portion of the award in the condemnation proceeding that represents the fair market value of the Premises and the Lessor owned Improvements, the consequential damage to any part of the Premises that may not be taken; the diminution of the assemblage or plottage value of the Premises not so taken; and all other elements and factors of damage to the Premises; but in all events the damage or valuation will take into consideration that the Premises are encumbered by this Lease.

(ii) Lessee will have the right to receive directly from the condemning authority that portion of the award referred to as the Leasehold Award (as defined below). The term "Leasehold Award" means that portion of the award in the condemnation proceeding that represents the fair market value of Lessee's interest in the Premises and the Lessee owned Improvements and the fair market value of Lessee's leasehold estate as so taken and, if this Lease is not terminated as a result of the Taking.

(iii) It is the intent of the parties that the Land Award and the Leasehold Award will equal the total amount of the awards respecting the Total Taking.

(b) If a court or another lawful authority that is authorized to fix and determine the awards fails to fix and determine, separately and apart, the Land Award and the Leasehold Award, the awards will be determined and fixed by written agreement mutually entered into by and among Lessor and Lessee, and if an agreement is not reached within 30 days after the judgment is entered in the proceeding, the controversy will be resolved in the same court in which the condemnation action is brought, in any proceedings that are appropriate for adjudicating the controversy.

13.3 Partial Taking and Award for Partial Taking. If, during the Term, there is a Taking of the Premises or the Improvements, but the Taking is not a Total Taking and not a temporary taking of the kind described in section 13.4, or if a change occurs in the grade of the streets or avenues on which the Premises abuts, this Lease will not terminate but will remain in full force and effect with respect to the portion of the Premises and the Improvements not taken (any Taking or change of grade of the kind described in this section being referred to as a "Partial Taking"), and in that event the total award or awards for the taking will be apportioned and paid in the following order of priority:

(a) Lessor may receive directly from the condemning authority, in its entirety and not subject to any trust, that portion of the award that equals the Land Award, and Lessee may not receive any part of the award; and

(b) Lessee, may receive directly from the condemning authority the balance of the award, to be applied by the recipient as it deems appropriate.

13.4 Temporary Taking. If there is a Taking of all or a part of the Premises or the Improvements for temporary use, this Lease will continue without change, as between Lessor and Lessee, and Lessee will be entitled to the entire award made for that use. Lessee will also have the right to file and prosecute any claim against the condemnor for damages, and to recover the same, for any negligent use, waste, or injury to the Premises or the Improvements throughout the balance of the then-current Term. The amount of damages so recovered will belong to Lessee.

13.5 Dispute Resolution. In the event of any dispute between Lessee and Lessor regarding any issue of fact arising out of a Taking mentioned in this Article, the dispute shall be resolved by the same court in which the condemnation action is brought, in any proceedings that are appropriate for adjudicating the dispute.

Article 14

Assignment and Subletting

14.1 Limitations on Transfers. Except as permitted under section 14.2 and article 16 below, Lessee shall not, voluntarily or by operation of law, sell, assign, or transfer this Lease or any interest therein, sublet the Premises or any part thereof, or grant any right to use the Premises, the Improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Lessor. Any attempted Transfer without such prior written consent will be void. Lessor's consent to a Transfer will in no event release Lessee, any assignee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease, nor relieve Lessee from the requirement of obtaining Lessor's prior written consent to any further Transfer. Lessor's acceptance of Rent from any other person will not be deemed to be a waiver by Lessor of any provision of this Lease or consent to any Transfer.

14.2. Assignments Prohibited. An assignment prohibited within the meaning of this section 14.1 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise.

Article 15

Lessor Mortgages

15.1 Lessor Mortgages. Lessor shall not, at any time, borrow against or encumber its interest in the Premises, or this Lease. Lessee may borrow against the Lessee owned Improvements so long as the term of such debt will end prior to the Term of this Lease, and further that if any

claim or security interest is asserted against the Lessee owned Improvements, that Lessee shall not suffer the same but pay fully such debt and remove any claim or security interest on the Lessee owned Improvements fully before the Term of the Lease expires. If Lessor exercises its right of early termination, then Lessee shall be obligated to remove the security interest or other encumbrance prior to the termination date of the Lease as so established.

Article 16

Default

16.1 Event of Default. The occurrence of any one or more of the following constitutes an event of default under this Lease:

- (a) Failure by Lessee to pay any amount required to be paid by Lessee to Lessor under this Lease within 10 days after written notice of such nonpayment is given to Lessee;
- (b) Failure by Lessee to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within 10 days after written notice thereof is given to Lessee;
- (c) Failure by Lessee, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than as set forth in subsections (a) and (b) above) and such failure continues and is not remedied within 30 days after written notice thereof is given to Lessee;
- (d) Lessee becomes insolvent; Lessee makes an assignment for the benefit of creditors; Lessee files a voluntary petition in bankruptcy; Lessee is adjudged bankrupt or a receiver is appointed for Lessee's properties; the filing of any involuntary petition of bankruptcy and Lessee's failure to secure a dismissal of the petition within 45 days after filing; or the attachment of or the levying of execution on the leasehold interest and Lessee's failure to secure discharge of the attachment or release of the levy of execution within 30 days; or
- (e) Lessee has a material breach as described in section 3.2, which shall be deemed as a breach without any cure period set forth in provision (c) of this article.

Article 17

Remedies

17.1 Remedies. Upon the occurrence of an event of default, Lessor may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

(a) Lessor may terminate this Lease by written notice to Lessee, which is effective immediately.

(b) Lessor or Lessor's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Premises and the Improvements (as provided in Section 19) either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Premises and the Improvements, to the end that Lessor may have, hold, and enjoy the Premises and the Improvements. **RE-ENTRY OR TAKING POSSESSION OF THE PREMISES OR THE IMPROVEMENTS BY LESSOR WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO LESSEE.**

(c) Lessor may, without terminating the Lease, relet the whole or any part of the Premises and the Lessor owned Improvements from time to time, either in the name of Lessor or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Lessor determines to be appropriate. To the extent allowed under Oregon law, Lessor may not relet all or any part of the Premises or the Lessor owned Improvements and shall not be liable for refusing to relet the Premises or the Lessor owned Improvements, or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Lessor will not operate to relieve Lessee of any liability under this Lease or otherwise affect such liability. Lessor at its option may make any physical change to the Premises or the Lessor owned Improvements that Lessor, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.

(d) Whether or not Lessor retakes possession of or relets the Premises and the Lessor owned Improvements, Lessor may recover its damages, including without limitation, all lost rentals and all costs incurred by Lessor in restoring the Premises or otherwise preparing the Premises and for reletting, and all costs incurred by Lessor in reletting the Premises.

(e) To the extent permitted under Oregon law, Lessor may sue periodically for damages as they accrue without barring a later action for further damages. Lessor may in one action recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent (including Taxes) reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Premises and the Lessor owned Improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If Lessor relets the Premises and the Lessor owned Improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

17.2 Lessor's Self-Help Right. If Lessee at any time (a) fails to pay any Tax in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Lessee (or without notice in the event of an emergency) and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease or from any default by Lessee and without waiving Lessor's right to take any action that is permissible under this Lease as a result of the default, Lessor may, (i) pay any Tax or make any other payment required of Lessee under this Lease, and (ii) perform any other act on Lessee's part to be made or performed as provided in this Lease, and may enter the Premises and the Improvements for any such purpose, and take any action that may be necessary. All payments so made by Lessor and all costs and expenses incurred by Lessor in connection with the performance of any such act will constitute additional costs payable by Lessee under this Lease and must be paid to Lessor on demand. In no instance shall Lessee be entitled to attorney's fees relating to any default, remedy or self-help, even if it is determined that Lessor did not act appropriately with respect to the same.

17.3 No Waiver. No failure by Lessor to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, may be waived, altered, or modified except by a written instrument executed by Lessor. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

17.4 Remedies Cumulative and Nonexclusive. Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Lessor's or Lessee's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Article 18

Sale By Lessor and Limitation of Lessor's Liability

18.1 Sale by Lessor. Upon sale of the Premises during the Term of this Lease or any extensions, this Lease shall be terminated. Lessor shall not agree to any sale terms that shorten the notice of termination period required to be given to Lessee in section 2.2.

18.2 Nonrecourse Obligation. Regarding any claim against Lessor, including any claim of default by Lessor under this Lease or in any claim or cause of action arising under this Lease or arising out of the Lessor-Lessee relationship created by this Lease, the sole and exclusive remedy

of Lessee shall be against the interests of Lessor in the Premises and its reversionary interest in the Lessor owned Improvements and Lessor will have no other liability hereunder. Lessee shall not enforce any judgment against Lessor except against the interest of Lessor in the Premises and its reversionary interest in the Lessor owned Improvements. In no event will any elected official, officer, employee, or agent of Lessor have any personal liability to Lessee. Lessee agrees that this provision will apply to any and all liabilities, claims, and causes of action whatsoever, including those based on any provision of this Lease, any implied covenant, or any statute or common-law principle. Notwithstanding any other provision of this Lease, in no event whatsoever may Lessor be responsible for any consequential or incidental damages or for any action that Lessor believes in good faith is necessary to comply with Legal Requirements with respect to the Premises or the Improvements.

Article 19

Surrender and Holdover

19.1 Condition of Premises and Improvements. Upon expiration of the Term or earlier termination of this Lease, Lessee shall deliver to Lessor the Premises in good condition, free and clear of all occupancies other than subleases to which Lessor has specifically consented and free and clear of all liens and encumbrances other than those, if any, existing on the date of this Lease or created or suffered by Lessor. Lessee shall surrender the Premises and the Lessor owned Improvements in good condition and repair (reasonable wear and tear excepted), free and clear of all occupancies other than subleases to which Lessor has specifically consented and free and clear of all liens and encumbrances other than those, if any, existing on the date of this Lease or created or suffered by Lessor.

19.2 Lessee's Property. Before the expiration or earlier termination of this Lease, Lessee shall remove all Lessee owned Improvements, furnishings, furniture, and trade fixtures that remain Lessee's property (the "Lessee's Property"). If Lessee fails to do so, at Lessor's option, (a) the failure to remove Lessee's Property will be deemed an abandonment of Lessee's Property, and Lessor may retain Lessee's Property and all rights of Lessee with respect to it will cease; or (b) by written notice given to Lessee, Lessor may elect to hold Lessee to Lessee's obligation of removal, in which case Lessor may effect the removal, transportation, and storage of Lessee's Property and Lessee shall reimburse Lessor for the costs incurred in connection therewith on demand.

Article 20

Condition of Premises

Lessee acknowledges that it has examined the physical condition of the Premises (including whether the Premises contains any Hazardous Substances or fails to comply with any Environmental Laws) and as a result agrees to accept the Premises in "as-is" condition, with all faults. Lessee further acknowledges that no representations or warranties regarding the condition of the Premises have been made by Lessor or any agent or person acting for Lessor.

Article 21

Quiet Enjoyment

On paying the Rent and adhering to all covenants, agreements, and conditions of this Lease, Lessee will have quiet enjoyment of the Premises during the Term without hindrance or disturbance by any person claiming by, through, or under Lessor, subject, however, to the Permitted Exceptions.

Article 22

Notices

22.1 Notice Parties and Means of Delivery. Any notice required or permitted by the terms of this Lease will be deemed given if delivered personally, sent by United States registered or certified mail, postage prepaid, return receipt requested, or sent by fax with electronic confirmation of fax receipt, and addressed as follows:

If to Lessor: Clackamas County Development Agency
150 Beaver Creek Rd., Oregon City, OR 97045
Attn: Dan Johnson

With a copy to: Clackamas County Counsel's Office
2051 Kaen Rd., Oregon City, OR 97045

If to Lessee: Clackamas County
Department of Health, Housing, and Human Services
2051 Kaen Rd., Oregon City, OR 97045
Attn.: Richard Swift

With a copy to: Clackamas County Counsel's Office
2051 Kaen Rd., Oregon City, OR 97045

22.2 Copies of Certain Notices to Lessee. Lessee shall immediately send to Lessor, in the manner prescribed in this Article, copies of all notices that Lessee gives to or receives with respect to the Premises or the Improvements from any entity that impacts the Premises, including but not limited to any government authority, fire regulatory agency, or similarly constituted body, and copies of its responses to those notices.

22.3 Failure to Notify of Change of Address or Refusal to Accept a Notice.

Notwithstanding anything in this Article to the contrary, any notice mailed to the last-designated address of any person or party to which a notice may be or is required to be delivered pursuant to this Lease or this Article shall not be deemed ineffective if actual delivery cannot be made because of a change of address of the person or party to which the notice is directed or the failure or refusal of such a person or party to accept delivery of the notice.

Article 23

Miscellaneous

23.1 Survival. All agreements (including, but not limited to, indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

23.2 Invalidity. If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

23.3 Force Majeure. If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any Legal Requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, terrorism, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

23.4 Nonmerger. There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the leasehold estate created by this Lease, or any interest in this Lease, may be held, directly or indirectly, by or for the account of any person who owns the fee estate in the Premises or any interest in such fee estate. No merger will occur unless and until all persons having an interest in the fee estate in the Premises and all persons (including all Permitted Leasehold Mortgagees) having an interest in this Lease, or in the leasehold estate created by this Lease, join in a written instrument effecting the merger and duly record the same.

23.5 Lease Documents and Expenses. This Lease shall be prepared by Lessor. Lessor shall be responsible for its own costs of legal review and documentation, and Lessee shall be responsible for its own costs of legal review and documentation in the drafting and execution of this Lease.

23.6 Entire Agreement; Counterparts. This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Lessee and Lessor mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease. This Lease may be executed in any number of

counterparts, including by fax signatures, each of which will constitute an original, but all of which will constitute one Lease.

23.7 Applicable Law. This Lease will be governed by, and construed in accordance with, the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

23.8 Brokerage. Lessor and Lessee represent to each other that they have not employed any brokers in negotiating and consummating the transaction set forth in this Lease, but have negotiated directly with each other.

23.9 Binding Effect. The covenants and agreements contained in this Lease are binding on and inure to the benefit of Lessor, Lessee, and their respective successors.

23.10 Recordation of Lease. Lessee may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. Lessee will pay the recording costs.

23.11 Time Is of the Essence. Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

23.12 Interpretation. In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon shall be given equal weight, and there shall be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Lessor and Lessee acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

23.13 Headings, Captions, and References. The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neutral gender in this Lease includes the masculine, feminine, and neutral genders and the singular form includes the plural when the context so requires.

23.14 Relationship of Parties. Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Lessor and Lessee.

23.15 USA PATRIOT Act Compliance. Lessee represents to Lessor that Lessee is not (and is not engaged in this transaction on behalf of) a person or entity with which Lessor is prohibited from doing business pursuant to Antiterrorism Laws. "Antiterrorism Laws" means any law, regulation, or executive order pertaining to national security and specifically includes, but is not limited to, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the PATRIOT Act) (Pub L 107-56, 115 Stat 272); the Bank Secrecy Act (31 USC § 5311 *et seq.*); the Trading with the Enemy Act (50 USC App

§ 1 *et seq.*); the International Emergency Economic Powers Act (50 USC §§ 1701–1706); sanctions and regulations promulgated pursuant thereto by the Office of Foreign Assets Control, as well as laws related to the prevention and detection of money laundering in 18 USC sections 1956 to 1957. Lessee hereby agrees to indemnify, defend, and hold Lessor harmless from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney fees and costs at trial and on appeal) arising from or related to any breach of the foregoing warranty, representation, and certification. Following a Transfer, Lessee will cause the transferee (including, but not limited to, an assignee, sublessee, and licensee), for the benefit of Lessor, to reaffirm, on behalf of such transferee, the representations of, and to otherwise comply with the obligations set forth in this section 29.15, and it is reasonable for Lessor to refuse to consent to a Transfer in the absence of such reaffirmation and compliance.

[Signature Page Follows]

IN WITNESS WHEREOF, Lessee and Lessor have caused this Lease to be executed by their duly authorized representatives as of the day and year first written above.

CLACKAMAS COUNTY
DEVELOPMENT AGENCY

/s/ 11-8-18 V.L.

By: 

Name: Jim Bernard

Title: Chair

CLACKAMAS COUNTY

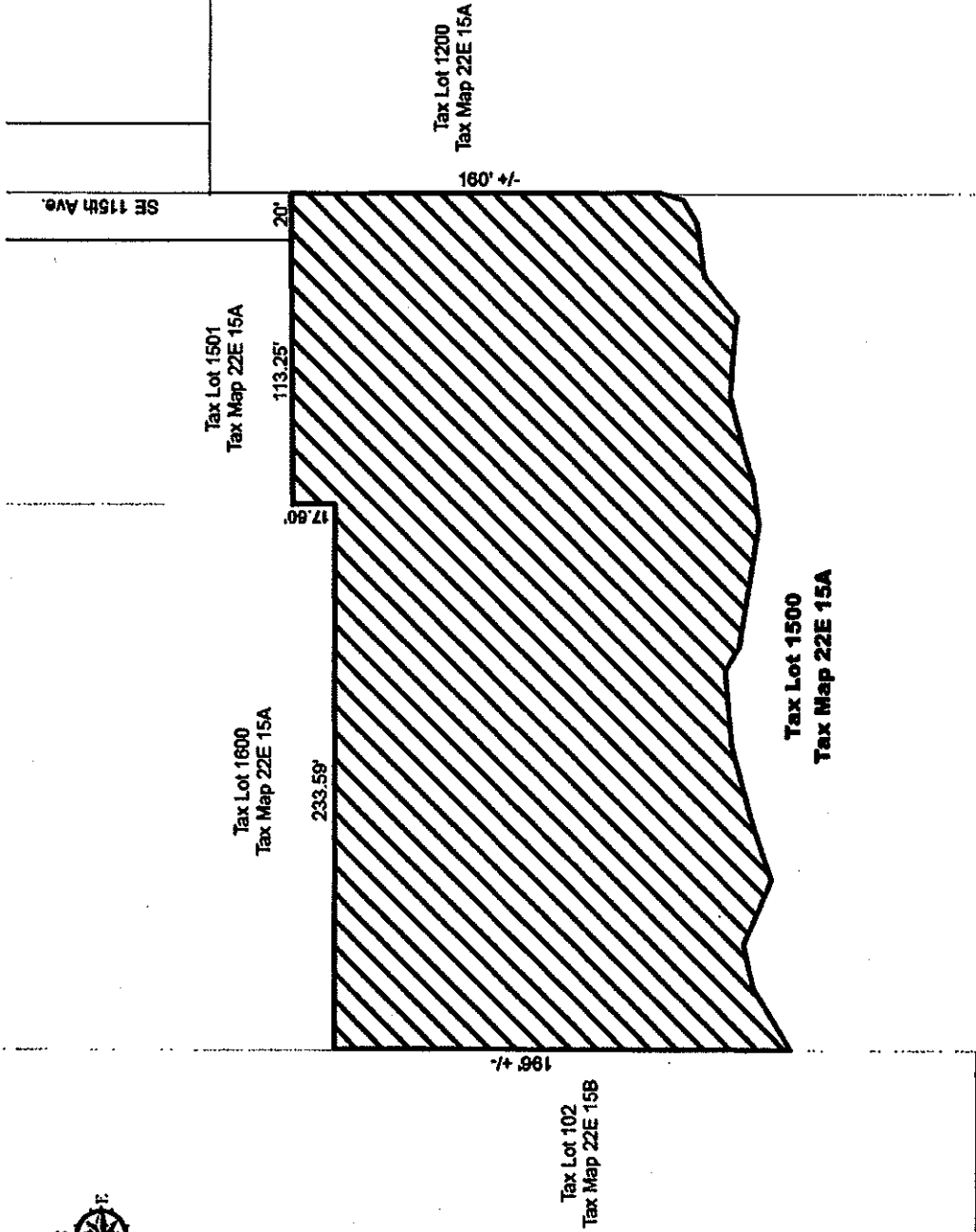
/s/ 11-8-18 A3.

By: 

Name: Jim Bernard

Title: Chair

EXHIBIT A




 Veteran's Village Boundary.

EXHIBIT B

Lessee Owned Improvements

- Up to 30 sleeping pods
- Bathroom and kitchen facilities
- ADA accessibility improvements
- Power poles

December 9, 2021

Board of Commissioners Clackamas
County

Members of the Board:

Approval of Amendment #2 extending to the Intergovernmental Agreement between the Housing Authority of Clackamas County and Social Services for six (6) months and adding \$55,000 for case management to assist Public Housing residents.

Funded with County General Funds through the Affordable Housing and Services Fund

Purpose/Outcomes	Approval of Amendment #2 to the Intergovernmental Agreement between the Housing Authority and Social Services for case management for HACC program participants
Dollar Amount and Fiscal Impact	Amendment #2 will add \$55,000 to the total contract value. Total contract value over 3 years with Amendments will be \$280,000.
Funding Source(s)	Affordable Housing & Services – General Funds
Duration	Extension of contract January 1, 2022 - June 30, 2022. Full contract terms July 1, 2019 – June 30, 2022
Previous Board Action	May 16, 2019 - Board approved IGA (fully executed May 28, 2019) May 20, 2021 - Board approved Amendment #1 December 7, 2021 – Item at Issues
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding is in alignment with the H3S priority that residents experience opportunities for stable, affordable and quality housing by providing stabilizing case management services for HACC program residents. 2. This funding aligns with the County’s strategic priority to ensure safe, healthy and secure communities.
Counsel Review	Andrew Naylor, November 22, 2021
Contact Person	Brenda Durbin; Social Services Director x8641
Contract Number	Contract No. 9247

BACKGROUND:

Social Services, a Division of the Health, Housing and Human Services Department (H3S), requests approval to extend the Intergovernmental Agreement with HACC a Division of H3S, to ensure the continuation of case management for families participating in HACC programs.

Amendment #2 to the IGA contract No.9247, extends the term of the agreement by six (6) months, from January 1, 2022 through June 30, 2022 and increases the total contract value by \$55,000. The continuation of this contract to the end of the fiscal year will bring it into alignment with other Affordable Housing and Services Contracts in preparation for a new procurement for these funds for next fiscal year.

This contract funds a full-time case manager for residents of HACC programs. HACC program clients are selected from the wait list. Many are homeless and/or have high barriers and therefore are in need of intensive case management to be successfully housed. The Case Manager works in collaboration with the Social Services Supportive Housing Team (“Housing Pod”) with most of the work taking place at tenant units and in the community.

The scope of work for the case manager is as follows:

- Eligibility and Intake
- Documentation of Homelessness and compliance
- Housing Stability and Increasing Income
- Eviction Prevention
- Vulnerable residents will be connected to support services
- Advocacy for residents to navigate systems
- Tracking Interventions and outcomes, with the goal of supporting long term sustainability, collaboration between service systems, and to keep at risk residents in their housing and off the streets.

RECOMMENDATION:

Staff recommends the Board approve Amendment #2 extending to the IGA between HACC and Social Services for six (6) months for a full-time case manager to assist the residents of Public Housing, adding \$55,000 to the total contract value. Staff recommends the Board authorize Commissioner Tootie Smith, Chair, to sign on behalf of the Housing Authority Board and on behalf of the Board of County Commissioners.

Respectfully submitted,



Rodney A. Cook, Director
Health, Housing and Human Services

Intergovernmental Agreement
Between Housing Authority of Clackamas County and Social Services Division
for the Public Housing Case Manager H3S Contract No. 9247

INTERGOVERNMENTAL AGREEMENT AMENDMENT #2

This Amendment #2 is entered into between **the Housing Authority of Clackamas County** (“HACC”) and **Clackamas County**, on behalf of its Social Services Department (“SSD”), and shall become part of the intergovernmental agreement (“Agreement”) entered into between both parties on May 28, 2019.

The purpose of this Amendment #2 is to make the following changes to the Agreement:

Article III, Section A, Budget and Terms of Payment for Services Rendered, is hereby amended as follows: In consideration for SSD providing a half time Case Manager to HACC during the extended term of this Agreement, HACC agrees to pay SSD an additional \$55,000.00

Article VI, Term of Agreement, Section A, is hereby amended to extend the termination date from December 31, 2021 to **June 30, 2022**.

IN WITNESS HEREOF, the Parties have executed this Amendment #2 by the date set forth opposite their names below.

**HOUSING AUTHORITY OF
CLACKAMAS COUNTY BOARD**

Commissioner Tootie Smith, Chair
Commissioner Sonya Fischer
Commissioner Mark Shull
Commissioner Paul Savas
Commissioner Martha Schrader
Resident Commissioner Ann Leenstra

Signing on Behalf of the Housing Authority of
Clackamas County Board

**CLACKAMAS COUNTY BOARD OF
OF COUNTY COMMISSIONERS**

Commissioner Tootie Smith, Chair
Commissioner Sonya Fischer
Commissioner Mark Shull
Commissioner Paul Savas
Commissioner Martha Schrader

Signing on behalf of Clackamas County
Board of County Commissioners

Commissioner Tootie Smith, Chair Date

Commissioner Tootie Smith, Chair Date

Approved as to Form

County Counsel Date